



Open adoption What you need to know

Mandatory written information on open adoption
for parents of Aboriginal and Torres Strait Islander
children in out-of-home care.



Acknowledgement

We recognise the Stolen Generations. On Sorry Day, 26 May 2008, former Prime Minister, Hon Kevin Rudd said sorry for the policy of removing many Aboriginal and Torres Strait Islander children from their families, communities and Country. These planned removals created the Stolen Generations. This continues to have a devastating impact on Aboriginal and Torres Strait Islander families, communities and cultural connection. For the pain and suffering this caused and continues to cause, we are sorry.

National Apology to the Stolen Generations

Prime Minister (Hon Kevin Rudd MP):

Mr Speaker, I move: That today we honour the Indigenous peoples of this land, the oldest continuing cultures in human history. We reflect on their past mistreatment. We reflect in particular on the mistreatment of those who were Stolen Generations – this blemished chapter in our nation's history. The time has now come for the nation to turn a new page in Australia's history by righting the wrongs of the past and so moving forward with confidence to the future. We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians. We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their Country. For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry. To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry. And for the indignity and degradation thus

inflicted on a proud people and a proud culture, we say sorry. We the Parliament of Australia respectfully request that this apology be received in the spirit in which it is offered as part of the healing of the nation. For the future we take heart; resolving that this new page in the history of our great continent can now be written. We today take this first step by acknowledging the past and laying claim to a future that embraces all Australians. A future where this Parliament resolves that the injustices of the past must never, never happen again. A future where we harness the determination of all Australians, Indigenous and non-Indigenous, to close the gap that lies between us in life expectancy, educational achievement and economic opportunity. A future where we embrace the possibility of new solutions to enduring problems where old approaches have failed. A future based on mutual respect, mutual resolve and mutual responsibility. A future where all Australians, whatever their origins, are truly equal partners, with equal opportunities and with an equal stake in shaping the next chapter in the history of this great country, Australia.

INTRODUCTION

About this document



Michael Tidball

NSW Department of Communities and Justice

This booklet gives you information about out-of-home care open adoption in New South Wales. If you are given this booklet, it does not mean that open adoption of your child is certain. Within Aboriginal communities, adoption is not a cultural practice. Living with family and kin is preferred for Aboriginal and Torres Strait Islander children who are not able to live with their parents. If this is not possible, open adoption may be considered under special circumstances and as a last option. This process takes time. It's not a decision one person can make. It must be assessed to make sure it's the best decision for your child now and in the future. If open adoption is recommended, it must be considered by the NSW Supreme Court.

The Department has designed this booklet so that it follows the journey a parent going through the open adoption process may experience.

The sections in this booklet are:

1. Open adoption of my child is being considered
2. I've been told there will be an assessment
3. I've been asked if I would like to consent to my child's open adoption
4. An adoption application has been sent to court
5. My child has been adopted
6. I'd like more information

The Department is required to provide this information to you if open adoption is being considered for your child. Even if you are not Aboriginal or Torres Strait Islander, the information in this booklet applies to you if your child is Aboriginal or Torres Strait Islander.

Under the NSW adoption law, you must be given the information in this booklet before you are asked to agree to your child's open adoption when your child is under 12. You and your child will be given the opportunity to talk to a Registered Counsellor and go through the information in this booklet. You can also talk to an Aboriginal or Torres Strait Islander person who understands open adoption. If your child is aged 12-17 and they provide consent, you will not be asked to sign your agreement to open adoption but you will be asked to give us your thoughts and feelings about it.

I am aware of the distress that the information in this booklet and a plan of open adoption may bring. I have the utmost respect for the feelings of parents and for the rights of parents under our laws. There are two things I want to encourage:

- Be informed. Read this booklet. Open adoption can only happen if it is the best decision for your child now and in the future, and if an open adoption does happen, it must be open—which means there will be a plan for you and your family to stay connected or spend time with your child.
- Ask for help if you need it. Start with your child's caseworker. Ask them to explain anything you don't understand. The last section of this booklet also contains the contact details of organisations who will be able to help you.

Michael Tidball

Secretary - NSW Department
of Communities and Justice (DCJ)

Accessing this booklet

We are committed to providing accessible services to Aboriginal and Torres Strait Islander people.
If you have difficulty in understanding this booklet you can:



Contact Translating and Interpreting Service (TIS national) 131 450.



Download this booklet in PDF (websearch: mandatory written information) and listen using Adobe Acrobat's Read Out Loud function.



Ask your caseworker if the Department has an Aboriginal or Torres Strait Islander support worker who can go through this booklet with you.



Take a break. You don't have to read this whole booklet at once. You can go to the section you want to know more about at anytime, write down anything you don't understand or ask your caseworker to explain.



INTRODUCTION

Some terms in this booklet

Aboriginal and Torres Strait Islander people are the original inhabitants of Australia.

It is important to remember that Aboriginal and Torres Strait Islander cultures are very different, with their own unique histories, beliefs and values.

It is respectful to recognise their separate identities.

Aboriginal

means the First Nations Peoples of Australia. It is used to refer to different nations, language groups and clans in Australia.

Adoption agency

means the non-government agency who is accredited to manage open adoptions of children who are in out-of-home care.

Adoptive family

means your child's legal family after open adoption – their legal brothers, sisters, aunts, uncles and kin.

Adoptive parents (carers)

means your child's carers who become their legal parents after an open adoption order is made by the Supreme Court.

Agency

means the non-government agency that looks after your child while they are in out-of-home care.

Arrangements

means the way your child lives – their home, the people around them and what the Court says.

Carers

means people who look after your child.

Court order

means a legal decision made by a Court that is a rule that must be followed.

Family or birth family

means the family your child was born to – parents, brothers, sisters, aunts, uncles and kin.



INTRODUCTION

Some terms in this booklet continued

Family time (contact)

means time that your child spends with you, their brothers, sisters and other significant family or kin. Family time is critical to maintaining your child's sense of identity and culture. Family time can be time spent together in person, over the phone, texts, skype etc.

Parental responsibility

means the right to make decisions about what's best for your child.

Parents

means you, as your child's mother or father.

Parties

means people who are directly involved in open adoption court proceedings.

The Department

means the NSW Department of Communities and Justice.

Torres Strait Islander

means the First Nations People of Australia from any of the Torres Strait Islands between northern Australia and New Guinea. It is used to refer to different nations, language groups and clans in Australia.



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Open adoption of my child is being considered

This section looks at what you need to know if you are told that your child's carers would like to adopt your child. It explains what an open adoption is and the other care options instead of open adoption.



OPEN ADOPTION OF MY CHILD IS BEING CONSIDERED

Key points in this section

What is an open adoption?

Open adoption provides an opportunity for your child to have long term stability. It is a legal order that lasts for all of the child's life.

'Open' means the child has the right to stay connected to their family, Aboriginal and Torres Strait Islander communities, cultures and Country.



Being 'open' helps children when both families (birth and adoptive) stay in contact after an adoption order has been made.

Openness lets children feel free to talk about their families and about all of the things that make them who they are.

For more detail, go to page 11

OPEN ADOPTION OF MY CHILD IS BEING CONSIDERED

Key points in this section

What are the alternatives to open adoption?

The NSW law on open adoption protects future generations of Aboriginal and Torres Strait Islander children from past practices that separated children from their families, communities, cultures and Country.

When your child is in out-of-home care and returning them to your care is no longer being considered, open adoption is the last option considered.

Before open adoption is considered, the other options explored first are:

A Court order that gives parental responsibility to your child's carer such as a guardianship order.

Leaving things as they are now.



Remember: The Department and the Court must consider what is in the best interests of your child.

For more detail, go to page 13

About open adoption

Why is open adoption being considered for your child?

The Department or the agency looking after your child, aims to provide a safe and loving home for life to every child in out-of-home care. For this reason, caseworkers do ‘permanency planning’ with the goal of achieving a safe and permanent home that meets each child’s needs. Where children cannot be returned to their family, live safely with relatives or kin, or it is not in their interests to be in the parental responsibility of the Minister, open adoption is considered as a last option.

For your child, open adoption is the goal. That’s why you have been given this booklet.

Keep in mind that the goal can be changed and it doesn’t mean that your child is ‘locked in’ to open adoption. Before taking any legal steps to move to open adoption, the Department or the agency looking after your child must arrange an assessment that considers whether open adoption would best meet your child’s needs. This assessment is done by a trained person who has had no part in setting your child’s case plan goal.

What is an open adoption?

Open adoption is the legal process that permanently transfers all the legal rights and responsibilities of being a parent from you to your child’s adoptive parents. It is for the child’s life and doesn’t end when they turn 18. The status of an adopted person, and of an adoptive parent, is the same as if the child had been part of the adoptive family from birth. This means the adopted person gets new birth certificates. See section ‘New birth certificates’ on page 49.



Take a moment How do you feel about open adoption for your child right now? What things do you want to find out? Are there things that you’re not sure about? Read this booklet very carefully. If it doesn’t answer your questions, talk to your child’s caseworker or your legal support from Aboriginal Legal Services or Legal Aid.

OPEN ADOPTION OF MY CHILD IS BEING CONSIDERED

About open adoption continued

Who is the main focus in an open adoption?

Your child. Open adoption provides an opportunity for your child to live and be cared for by adoptive parents, allowing you to remain connected and involved with your child through their childhood and into adult life. The main consideration is the best interests of your child both now and in later life - open adoption is not provided to fulfil the wishes and hopes of any other person.

Why do we say adoption is 'open'?

It often benefits children when both families (birth and adoptive) remain in contact after adoption. For this reason, open adoption is now very different from the 'closed' adoptions that took place before the mid-1980s. In a closed adoption, parents and children had no contact or information about each other. Parents and adoptive parents did not get to know each other. Often, Aboriginal and Torres Strait Islander children who were forcibly taken away from family weren't given information about their parents and extended family.

Today, the law and adoption agencies recognise their past role in breaking important family, community and cultural ties. There is commitment and responsibility to support Aboriginal and Torres Strait Islander children to grow up strong in family and cultures by working together with Aboriginal and Torres Strait Islander family and communities.

How is open adoption practised?

Open adoption requires an open attitude and a commitment to sharing time and information between two families. An open attitude refers to a number of things:

- Accepting that the child has more than one family and culture.
- Being willing to know the other family and learn about their cultures, exchange information and build relationships through family time where possible.
- Providing the child with a safe space and freedom to talk about their parents, other family members, their cultures, and their thoughts and feelings about being adopted.

What role do adoption agencies play?

Adoption agencies are called accredited adoption service providers. They are committed to open adoption where it is assessed as being in a child's best interests. They educate and assess adoptive parents to ensure they are willing and able to support the child's connection to their birth family and Aboriginal and Torres Strait Islander cultures.

Alternatives to open adoption

Does the Department consider alternatives?

Yes. Before open adoption is planned for an Aboriginal and Torres Strait Islander child in out-of-home care, all options regarding the care of the child must be explored, and open adoption must be found to be clearly preferable in the best interests of the child to any other option. The Supreme Court can only make an adoption order if the Aboriginal and Torres Strait Islander placement principles in the *Adoption Act* have been properly applied, and it is clearly preferable to any other legal action regarding the care of the child.

The Department does not support open adoption unless returning to birth family, guardianship to a relative, kin or other suitable person and leaving things as they are (remaining as a child in out-of-home care) have been considered and ruled out.

What are the alternatives?

When returning your child to your care has been considered and ruled out, the alternative forms of care considered are:

- a Court order that gives parental responsibility to your child's carers until your child is 18, such as a guardianship order
- deciding to leave things as they are now, which generally means your child remains in long term out-of-home care under the parental responsibility of the Minister for the Department.

These arrangements end when your child turns 18. For some children, they may not provide lifelong permanency, a sense of belonging, or legal security in the way that open adoption does. Open adoption will be progressed for your child where it is decided that this is in their best interests now and in the future.

What is a guardianship order?

Guardianship is an order made by the Children's Court that gives full parental responsibility to a child's carers until the child turns 18. If parental responsibility was previously held by the Minister for the Department, this will end once a guardianship order is made. Most guardianship orders are made to people who are related to the child, however your child's carers can also seek to become their guardians.

OPEN ADOPTION OF MY CHILD IS BEING CONSIDERED

Alternatives to open adoption continued

What does a guardianship order do?

A guardianship order:

- Ends the involvement of the Department or the agency looking after your child, leaving all parenting decisions with the guardians.
- Does not involve any change to a child's birth certificate. The child's legal ties to their family are unchanged. However, a guardian may apply for a certificate to change the child's surname after a guardianship order is made.

- Comes with a plan for how the carers will meet all the child's needs into the future. This includes the child's need to form a positive identity by staying connected to their family, communities, cultures and Country.
- May be changed. If there is a significant change in situation, an application to change the order can be made to the Children's Court at any time up until the child turns 18.



Important things to remember

- Your child will remain living with their carers even if alternatives to open adoption are explored.
- Any order made by the Court must be in your child's best interests.
- Guardianship is a good option for many children. Guardians make all parenting decisions. They encourage children to stay connected to family, communities, cultures and Country. The child's birth certificate does not change and they remain a legal member of your family.



Take a moment Do you want to know more about the other options that must be considered before open adoption can progress? If yes, ask your child's caseworker to explain or view online information about the Department's Permanency Support Program (websearch: permanency support program).

I've been told there will be an assessment

This section looks at the adoption assessment. It explains who the assessor is, and what they consider. It explains what the assessor does and how the assessor decides if:

- your child's carers are suitable to adopt
- open adoption is in your child's best interests.

It also explains the planning that is done to support your child's life after open adoption, and the role that you will be asked to play.



What is the assessment process?

Your child's carers or your child express an interest in open adoption. A case plan goal of open adoption will need to be reviewed, supported and approved.

Your child's carers:

- attend a preparation to OOHC open adoption seminar to learn about the responsibilities of being an adoptive parent.
- apply to adopt after attending the seminar.

An assessor spends time with your child's carers and their family to decide if they are suitable people to adopt a child.



The assessor meets with you and family members who are important to your child to hear your views.

The assessor spends time with your child to discuss your child's needs, feelings and what matters to them.

If your child is young, the assessor will also observe them with their carers.

The assessor gives an opinion. If the assessor supports open adoption, an Adoption Plan is drafted with you, your child's carers and your child. The Department must give their approval before any further action is taken.

What do assessors consider?

The wishes of your child, as well as your wishes.

The wellbeing and cultural needs of your child and how they will be met by their carers.

The most important relationships in your child's life, including their relationships with you, their brothers and sisters, other family members and kin, and also with their carers and their family.



Each carer's personality, health, maturity and parenting ability.

How much the carers value and encourage your child's family time with you, their cultures and religious identity.

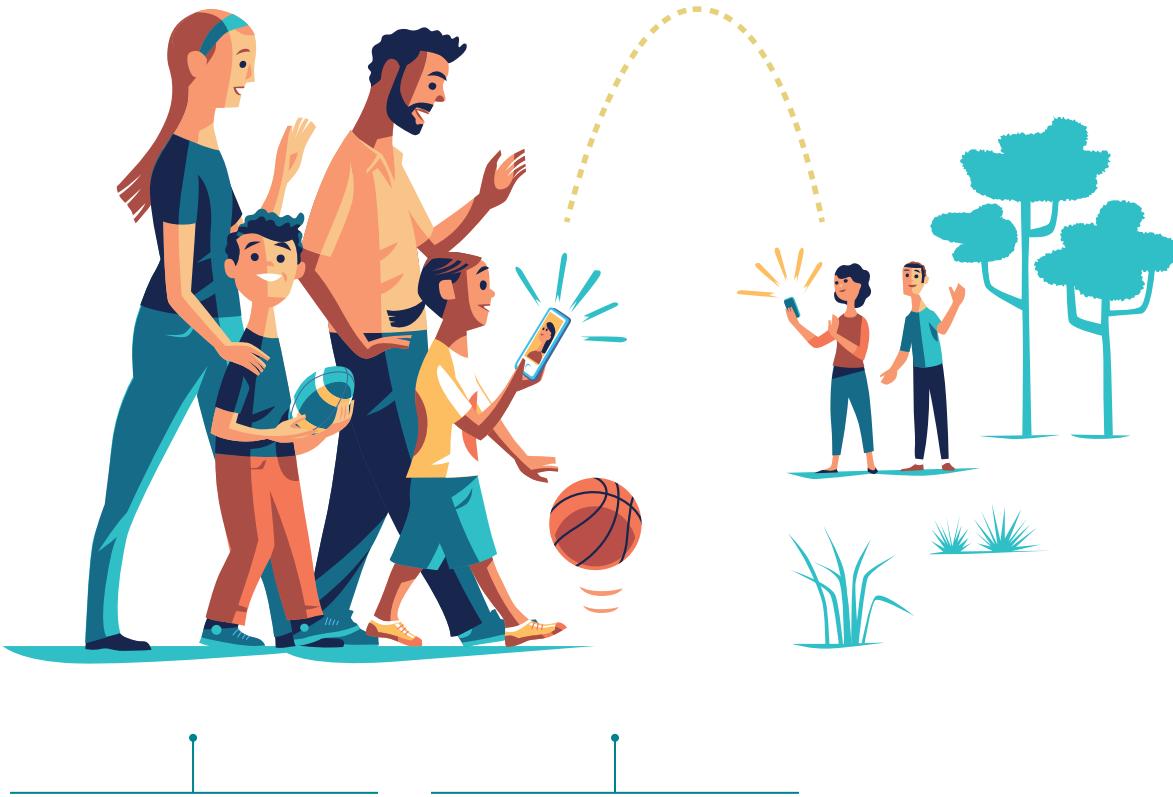
If there is any alternative to open adoption that might be in your child's best interests.

What is an Adoption Plan?

An Adoption Plan is a written agreement about how your child will remain connected to your family and cultures if an adoption order is made.

Agreeing to the Adoption Plan does not mean you consent to the open adoption of your child.

Agreeing to the Adoption Plan means you agree to the arrangements in the plan about staying in touch after the open adoption if it happens.



The Department will ask the Court to register the Adoption Plan.

'Registering' an Adoption Plan means the Court can enforce the arrangements in the plan.

If things change in the future you can ask the Court to consider a review of the Adoption Plan (but not the adoption).

For more detail, go to page 23

What is a cultural plan?

Cultural planning is the process of considering and providing for your child's future needs so that they remain connected to their family, communities, cultures and Country.

The cultural plan makes up part of the Adoption Plan which is registered at Court. You and your family play an important role in your child's cultural plan.

A cultural plan details how your child will continue to learn about their cultures, belong to their cultural communities and develop a positive cultural identity.



The Department will ask the Court to register the Adoption Plan. Registering the Adoption Plan means that important arrangements made about your child's cultural plan become part of the order of the Court, and should be enforceable.

When deciding whether open adoption is the best goal for your child, their cultural plan will be reviewed to make sure that the carers have been meeting your child's cultural needs and can continue to do so without the support of the Department or agency looking after your child.

For more detail, go to page 26

Assessment

Why is there an assessment?

An adoption assessment is required by law (the Adoption Act 2000). Its aim is to decide whether:

- the carers are suitable people to adopt your child, and
- open adoption is in your child's best interests – better than any other action that could be taken, including leaving things the way they are.

Who conducts the assessment?

The agency that is looking after your child selects a person who:

- is trained to assess whether open adoption is in your child's best interests, and
- has not been involved in making other decisions about your child's care.

How long does the assessment take?

The assessment is likely to take around four months.

This allows for a fair and full review of all of the factors that must be considered.

See 'What do assessors consider' on the next page.

It also allows the assessor to have as many conversations as needed to understand important information, views and feelings.

What happens in an assessment?

- The assessor reads information that helps them understand your child's life story – who they are and what has happened in their life.
- The assessor spends time in the carer's household, talking with your child, your child's carers and their own children (including those still living at home and older children who now live independently), and any other people who live in the home.
- The assessor spends time with you, listening to your views and questions about the proposed adoption and how connections will be maintained with your family and cultures, and understanding the concerns you have and what things matter the most to you.
- The assessor will explain what happens to the information you give them, and how it will be shared, so you can feel free to be honest about what you think and how you feel.
- The assessor spends time with any other person who is important to your child, e.g. the other parent, brothers, sisters, other family members and people who are important in your child's life.
- The assessor looks at ways your child will stay connected to their family, communities, cultures and Country.
- If open adoption is recommended, an Adoption Plan and Cultural plan are drafted. See section "What is an Adoption Plan?" on page 23, and "What is a Cultural plan?" on page 26.
- The assessor writes a report about the information they have collected and gives their opinion about open adoption. The most important thing the assessor will think about is whether open adoption is in your child's best interests and if the Adoption Plan meets your child's needs – not just now, but for their whole life.

Assessment continued



What do assessors consider?

- Your child's wishes.
- Your wishes.
- Your child's age, level of understanding, background and family relationships.
- Your child's physical, emotional and educational needs.
- Your child's sense of personal, family and cultural identity.
- Any disability or special needs that your child has.
- The relationship and family time that your child has with you, siblings, other family members and other significant people.
- The relationship of your child with each carer.
- The attitude of your child's carers to the idea of being your child's adoptive parents and how they feel towards your child.

How are the carers assessed?

Many factors must be taken into account when assessing whether a person is suitable to be an adoptive parent, such as the person's:

- emotional, physical and mental health
- age and maturity
- skills and life experience
- capacity to parent, provide a stable, secure and positive home for the child and maintain the child's cultural identity and religious faith (if any)
- commitment to maintain family time with the child's family
- general personality
- relationships with other members of the family and people living in their house.

How are the carers' ability to support my child's connection to their Aboriginal and Torres Strait Islander cultures assessed?

It is expected that the adoptive parents of an Aboriginal or Torres Strait Islander child are committed to supporting the child to learn about their Aboriginal and Torres Strait Islander cultures and heritage.

The adoption assessment will carefully look at whether the carers:

- can assist the child to develop a healthy and positive cultural identity
- have knowledge or are willing to learn about the child's heritage
- can teach and foster links with the child's heritage in their upbringing
- can help the child if the child is faced with racism or discrimination.

Assessment continued

What does the assessor provide when the assessment is completed?

- An assessment report detailing the assessor's opinion about whether:
 - the carers are suitable to adopt, and
 - open adoption is in your child's best interests and better than any other option and, if open adoption is recommended,
- A draft Adoption Plan which suggests the ways your child will be helped to know and value their identity if an open adoption happens. This includes a plan of family time with you and other important people. See more about Adoption Plans in the next section.

What will happen next?

If the assessor recommends open adoption, a decision-maker in the Department decides whether approval should be given to continue towards open adoption. Approval means the Department will take action to get an application ready for the Supreme Court.

The assessor may not recommend open adoption, or the decision-maker may not give approval to proceed. In these cases, no action will be taken towards open adoption. This does not necessarily mean that open adoption will never be considered again. It is possible that the matter will be placed on hold and reviewed at a later date. It is also possible that another permanency option is considered to be better for your child.



Important things to remember

No matter what is decided, the Department or the agency will contact you about the outcome of the assessment and involve you in the next steps.

Adoption Plan

What is an Adoption Plan?

An Adoption Plan is a written agreement about how your child will remain connected to your family and cultures if an adoption order is made. It outlines the following:

- How your child is going to learn about who they are and where they came from – things like their family history and Aboriginal or Torres Strait Islander identity and cultures.
- How your child will have healthy and positive links to their culture and identity
- The family time your child will have with you, their brothers and sisters and other important family members:
 - The Adoption Plan will say when you will meet, where, how often, and who will be there if face-to-face family time is best for your child.
 - It will also mention other ways of keeping in touch.
- The kind of information you will receive about your child – things like important life events, how things are going for them, including their health.
- The names your child will be known by if an adoption order is made.

- The kind of financial support or other help needed to make sure the Adoption Plan can be carried out.

Who is involved in an Adoption Plan?

An Adoption Plan is agreed to by two or more of the following people:

- Your child
- Each parent
- If the Court permits, an Aboriginal or Torres Strait Islander person who is significant to your child and/or family should be identified in the registered Adoption Plan. This person could be a support person, a friend, community member or kin, who can assist your child to remain connected to family, culture and community after adoption. This person or any family member can raise any concerns about your child and their cultural connections with the Department, and request a review of the arrangements.
- Your child's carers
- The Secretary of the Department
- The Principal Officer of an adoption agency.

The Adoption Act requires that Aboriginal and Torres Strait Islander people and organisations are consulted when important decisions such as the Adoption Plan, Placement or consent to adoption are being made about Aboriginal and Torres Strait Islander children.

This includes:

- an Aboriginal or Torres Strait Islander person approved by the Department with experience in working with Aboriginal and Torres Strait Islander children, who can give you and your family advice and assistance about care options for your child; or
- a person nominated by you, extended family or kinship group, who is recognised by the Aboriginal or Torres Strait Islander communities which your child belongs to, with expertise in out-of-home care or open adoption of Aboriginal and Torres Strait Islander children, and
- a local community-based and relevant Aboriginal organisation.

Adoption Plan continued

Consultation with a local community based and Aboriginal or Torres Strait Islander organisation may help you to:

- have discussions about what you think should be in the Adoption Plan that will help your child to develop a healthy and positive cultural identity
- develop a plan that will help your child to learn about their cultures and maintain links to their Aboriginal or Torres Strait Islander family, communities, cultures and Country throughout their growing years.

The Aboriginal or Torres Strait Islander person who is chosen to support your child will remain involved in your child's life to help them stay connected to their cultures, communities and family if an adoption order is made.

Your agreement is shown by signing the plan.



Important things to remember

Even if you don't consent to open adoption, you will still have every chance to be involved in adoption planning.

How will I be involved in the Adoption Plan?

An important purpose of the adoption assessment is to understand your wishes for future family time with your child, and the things that are important to you in keeping your child's identity, language and cultural ties strong. See section 'I've been told there will be an assessment' on page 20.

If the assessor supports open adoption, an Adoption Plan is drafted. If open adoption is approved, the Department or the adoption agency will come back to you to talk about the Adoption Plan in more detail.

You, your child's brothers, sisters, other important family members in your child's life and their carers will be asked to contribute to the draft Adoption Plan. There will be time to discuss different opinions and make the plan better. It's important to have an Adoption Plan that everyone can stick to, because there won't be a caseworker to help out after an adoption order is made.

Each parent will be asked to read and sign the finished Adoption Plan. It is important that you talk openly with your child's carers, the assessor and the caseworker about what you want and how you feel.

What does registering an Adoption Plan mean?

Adoption Plans are filed with the adoption application at the NSW Supreme Court. See section 'An adoption application has been sent to Court' on page 36.

All Adoption Plans for Aboriginal and Torres Strait Islander children are registered at Court. This means the Adoption Plan has the effect, on the making of the adoption order, of being part of the adoption order. It therefore becomes enforceable as an order of the Court.

Is agreeing to the Adoption Plan the same as giving consent?

No. Agreeing to the Adoption Plan does not mean you agree to the open adoption of your child. It means you agree to the arrangements that have been made to keep you and your child connected if an adoption order is made.

If you sign the Adoption Plan, you become a 'party' to the plan. That means that if the open adoption goes ahead, you can apply to the Court for a review of the Adoption Plan at any time after the order.

Adoption Plan continued

How do I know my child's carers will stick to the plan?

Adoption Plans often include other people apart from birth parents and carers. Other parties mentioned in the plan such as grandparents, brothers and sisters, aunts and uncles also play a role in making sure the plan is followed and family time continues. As the plan is registered, it becomes like a Court order and therefore should be able to be enforced. See section 'Changing family time (contact)' on page 53.

However, Adoption Plans cannot predict all of the changes that may happen in the future. Any party mentioned in the Adoption Plan may experience a change in circumstances. For example, one of the parties might:

- move to another location
- experience an accident or illness
- find some family time visits too difficult because of the emotional affects.

For a plan to work effectively, every party in the plan will need to show continuing commitment and flexibility based on the child's best interests.

If the open adoption goes ahead, and you think your child's adoptive family is not committed to the Adoption Plan or you feel the arrangements in the Adoption Plan are no longer meeting your child's needs, seek the support of a post-adoption service such as the Department's Adoption Information Unit at adoption.permanentcare@facs.nsw.gov.au. It may also be possible for the Court to review the plan. See section "I'd like more information" on page 57 at the end of this booklet.

Remember - If you are unsure of your rights and obligations, or you are concerned that the Adoption Plan is not being followed, you should speak to your lawyer from Aboriginal Legal Service or Legal Aid to get some legal advice about consent, the Court process and what your options are before and after an adoption order.



Important things to remember

- The Court reviews the Adoption Plan to make sure the child will stay connected to their family, communities, cultures and Country.
- All Adoption Plans for Aboriginal and Torres Strait Islander children are registered in the Supreme Court.
- All cultural arrangements for your child will be included in the Adoption Plan which is registered at Court.
- After an application is made by a party to the plan, the Court has the power to review an Adoption Plan and change it if necessary.
- The Court has the power to enforce a registered Adoption Plan.
- Signing an Adoption Plan gives you the legal right to seek to have the plan reviewed and/or enforced.



Take a moment Do you feel you understand the purpose and the activities of assessment and the Adoption Plan? If no, ask your child's caseworker for more detail.

Cultural plan

What is cultural planning?

How a child is supported to develop a healthy and positive cultural identity is an important part of the Adoption Plan. Parents, brothers, sisters and significant family members have a say in how they would like to remain connected with the child and how they will help the child's connection with their family, communities, cultures and Country.

Cultural planning starts as soon as a child enters care. Cultural planning:

- ensures that children who cannot grow up in their family of birth continue to learn about their cultures, belong to their cultural communities and develop a positive cultural identity now and into their future
- identifies the cultural needs of the child and outlines how a child is going to be supported to maintain their cultural identity, language, spirituality and religion, connection and sense of belonging to family, communities, cultures and Country

- helps ensure that important cultural and family information is maintained for any child who is too young to contribute to their own cultural plan
- focuses on building the capacity of carers to support children to be positively connected to their cultures. This includes building the skills of carers to independently manage relationships and family time (contact) with the birth family
- ensures that carers know how to access education and build support networks to meet the changing cultural needs of children over time.

How will I be involved in the cultural plan?

The cultural plan is an important part of the Adoption Plan which you will help to develop for your child. You will be asked to provide information such as:

- Where you come from and your areas of belonging:
 - The traditional communities/Country/ nation of one or both parents.
 - The communities where you or your child was born.

- The communities where you were raised or lived most of your life.
- The community where you currently reside.
- Language groups.
- Your family/kinship or community ties:
 - Blood related (mum, dad, siblings, grandparents, cousins, aunty).
 - Marriage (aunty, uncle, cousin).
 - Community or non-related family (Elder, neighbour, friend).
 - Kinship relationship (Elder, aunty, uncle, community).
 - People within the community who you feel a sense of belonging.
- How you engage in culture in your family.
- What you want your child to know about your culture.
- Who else holds cultural knowledge in your family (if known).
- Community and cultural activities and events your child could participate in.

Cultural Plan continued

This information will be used to develop a cultural plan for your child to make sure they continue to develop a healthy and positive cultural identity and maintain a sense of belonging to their Aboriginal or Torres Strait Islander communities, cultures and Country.

Who else is involved in cultural planning for my child?

Where possible, a person of significance to the child and family should be identified in the Adoption Plan. This person may be a support person, friend, community member or kin who can assist the child to remain connected to family, communities, cultures and Country after open adoption.

Consultation during the development of the Adoption Plan will occur with your family, extended family, kin and community (where possible) and with a local community-based and relevant Aboriginal or Torres Strait Islander organisation. Consultation is important to provide your child with specific cultural information that connects them to their family, communities, cultures and Country.

What is included in the cultural plan?

All cultural arrangements for your child including planned activities, will be included in the Adoption Plan. It is important that the arrangements for your child are specific and detailed and promote future connections to cultures.

You and your family members play a key role in supporting your child's identity and cultural needs, even after open adoption.



Take a moment

Do you understand the purpose and what needs to be included in a Cultural Plan?

If no, ask your child's caseworker.

I've been asked if I want to consent to my child's open adoption

This section looks at what it means to give consent to your child's open adoption. It explains whether or not you have to consent, and what happens if you change your mind.



Can my child still be adopted if I don't give consent?

Yes. The Supreme Court can make an adoption order without your consent under these situations:

Your child is in foster care and has a stable relationship with their carers. Open adoption will promote your child's welfare, and alternatives to open adoption have been considered. It must also be in your child's best interests.

A parent cannot be found or identified, and it is in your child's best interests.



There is serious concern for the welfare of your child if an adoption order is not made, and it is in your child's best interests.

You are unable to give consent due to a mental health or physical condition, and it is in your child's best interests.

How do I give consent?



- 1 First, you will receive this booklet 14 days before you give your consent to the open adoption.
- 2 Then you will talk to a registered adoption counsellor so you fully understand the legal and emotional effects of open adoption and what consent means.
- 3 Then you will be asked to speak with an approved Aboriginal person with experience working with Aboriginal children. They will provide you with 'adoption counselling' about the alternatives to adoption including the possibility of your child being cared for in accordance with Aboriginal customs and culture.

If you do not wish to participate in the adoption counselling, you will be given an additional information booklet on Aboriginal and Torres Strait Islander customs and culture, and will need to sign a form saying that you have read and understood the information in the booklet.

This booklet is called 'Additional written information on open adoption for Aboriginal and Torres Strait Islander children in OOHC and their parents'.

- 4 You can give consent to the open adoption 72 hours after seeing the registered counsellor, but no more than 30 days after. If you refused the adoption counselling, you cannot consent to the adoption until at least 7 days after being given the additional information booklet on Aboriginal and Torres Strait Islander customs and culture
- 5 You will be given a document called an 'Instrument of Consent' to sign your consent.
- 6 You will also be given a document that lets you take back your consent if you change your mind within 30 days.

About consent

Why am I being asked to consent?

It's the law. Each child's parent and any person who has parental responsibility must be asked whether they want to give their consent to the open adoption. Even if you no longer have parental responsibility for your child, the law requires that you are asked if you want to consent. Parents do not have to discuss their views about consent with each other, or agree with one another. Choosing whether or not to consent is a personal choice. Your decisions will be based on many factors.

Some reasons you might want to consent are:

- Your child is happy living with their carers.
- You have a good relationship with your child's carers.
- You believe that open adoption is the best choice for your child if they can't live with you.

- You want your child to know you were part of this decision.
- You are confident that you will remain connected with your child as set out in the Adoption Plan.

What if I don't want to give my consent?

You don't have to. In fact you do not have to take any action at all. Many parents choose not to consent, even if they feel that their child is being well cared for. Some reasons you might not want to consent are:

- You don't want to end your parental rights.
- You don't want your child to have new birth certificates.
- You are worried your relationship with your child will change after an open adoption.
- You feel confused about what's the best option for your child.

- You don't want to go through counselling and give consent as it is too much work, but you still support the adoption.
- You don't want your child to think you gave up on them by consenting to their adoption.

When will I be asked to consent?

The consent of the parents and the Minister for the Department are requested when your child:

- is under 12, or
- is over 12 but has been living with their carers for less than 2 years, or
- is over 12 but does not have the sufficient maturity to give consent.

Your child's consent is the only consent needed if he or she is aged 12-18, has been with their carers for longer than 2 years, and has the capacity to give consent.

About consent continued

What will my child think of my decision when they grow up?

Every situation is different and of course it is not possible to know how your child will feel in the future.

Some adopted people have said that it helped them when their parents decided to consent. They felt supported. Other adopted people have said that they understood and respected their parents' feelings in deciding not to consent. It made them feel that their parents wanted to keep them in their lives and would not 'let go' of them.

Can my child still be adopted if I don't consent?

Yes. The Supreme Court can make a 'consent dispense order'. This means the Court can decide your consent is not needed. The Court may do this if it is satisfied that it is in the best interests of your child.

When can a Court dispense with consent?

The Court may decide to dispense with a parent's consent where it is in the best interests of the child, in any of the following situations:

- The parent cannot be found, or identified.
- The parent is unable to consent for reasons such as a mental health or physical condition.

- There is serious concern for the welfare of the child if an adoption order is not made.
- The child is in foster care and has a stable relationship with their carers, open adoption by those carers will promote the child's welfare, and alternatives to open adoption have been considered.

If I don't consent, does it affect my chances of future family time?

No. Whether you consent or not, it's your right to be involved in adoption planning and to have an ongoing relationship with your child. An Adoption Plan sets out the family time that you will have with your child if an open adoption happens. If you agree to the plan, it does not mean you agree to the open adoption.

What is the process for consenting?

If you decide to give consent to your child's open adoption, you will be guided through the following steps:

- You are provided with 'registered adoption counselling'. The counsellor makes sure you understand what it means to give your consent. They discuss the emotional effects of open adoption and the alternatives to open adoption that have been considered.

- You must receive a copy of this booklet at least 14 days before giving consent.
- You will then be provided with 'adoption counselling' by an Aboriginal or Torres Strait Islander person approved by the Department with relevant experience working with Aboriginal and Torres Strait Islander children to talk about your child growing up within Aboriginal and Torres Strait Islander customs and cultures. If you do not want to attend the 'adoption counselling', you will not be able to consent to your child's open adoption until at least 7 days after being given a booklet called 'Additional written information on open adoption for Aboriginal and Torres Strait Islander children in OOHC and their parents'.

About consent continued

- You will be asked to sign a document that confirms you have:
 1. Been given an opportunity to participate in 'adoption counselling' with an Aboriginal or Torres Strait Islander person approved by the Department with experience in working with children, and have read and understood the information in this booklet, or
 2. Declined to receive 'adoption counselling' and have read and understood the booklet called 'Additional written information on open adoption for Aboriginal and Torres Strait Islander children in OOHC and their parents'.
You cannot consent until at least 7 days after receiving that booklet.

- You can give consent 72 hours after receiving registered adoption counselling but no more than 30 days after.
If 30 days has passed since you received registered adoption counselling, you will need to attend this counselling again before giving consent.
- Your consent is given when you sign a document called an 'Instrument of Consent'.
- A qualified person – not the counsellor and not your child's caseworker – witnesses your consent.
- You receive a copy of the Instrument of Consent that you signed, and a 'revocation notice' that tells you the last date on which you may take back your consent. Go to the back of this booklet to take a look at the sample forms.



What does it mean to give my signed consent?

- Your signed, witnessed consent is a legal document.
- It will be given to the Court to show your agreement.
- 'Witnessed consent' means a qualified person watches you sign the consent form.



Take a moment Do you understand what 'dispensing' with consent is, and how it is possible for an open adoption to happen without your consent? If no, ask your child's caseworker to explain, or seek legal advice. See section 'I'd like more information' at the end of this booklet.

Taking back consent

What if I change my mind?

You have a right to revoke (take back) your consent to the open adoption during the 30 days after you consent. This period starts on the day you sign your consent.

If I change my mind, how do I take back consent?

You will receive a document called 'revocation notice' at the time of signing consent. If you change your mind and want to take back your consent, you must inform the Court by filling in the revocation notice. You will receive a written reminder no less than 7 days before the end of the revocation period. You don't have to wait for this reminder. You can revoke your consent at any time during the 30-day revocation period.

Go to the back of this booklet to see a sample of the revocation notice.



Who could I talk to about this?

If you are worried about how to revoke your consent, ask for help from:

- your child's caseworker
- your local Department office
- the adoption agency
- your Aboriginal Legal Service representative
- a Legal Aid lawyer
- the adoptions clerk at the Supreme Court.

If you would like advice and support with the process, you can contact the Aboriginal Legal Service (ALS) NSW/ACT on 1800 733 233. They can help you understand or challenge your child's open adoption. See the section 'I'd like more information' at the end of this booklet.

How do I make sure the Court knows I have changed my mind?

You can get help. You can also take the revocation notice to the Supreme Court yourself, or send it by mail or courier. The notice must reach the Supreme Court no later than 5 pm on the 30th day after signing consent. If the end of the revocation period falls on a weekend or public holiday, then the 30th day is taken to be the next business day.

The address of the Supreme Court is:

The Registrar, Equity Division
Law Courts Building
184 Phillip Street
Sydney, NSW 2000

Taking back consent continued

What if I lose the revocation notice?

Your revocation must be in writing. If you lose the notice, you can write a letter that clearly says 'I wish to revoke my consent to the adoption of my child', with the following details:

- The name of your child.
- Your child's date and place of birth.
- Your name, address, phone number.
- The date you gave consent to open adoption.
- The agency you are in contact with.

Sign and date your letter before sending it to the Court.

What will happen to my child if I take back consent?

The responsibility for making parental decisions still stays with the Minister for the Department, or a person that the Minister delegates this responsibility to.

As your child is in out-of-home care and open adoption has been assessed to be in their best interests, the adoption application can be filed with the Supreme Court even if you take back your consent. The Court can be asked to dispense with your consent (order that your consent is not required).



Take a moment

Do you understand how to 'revoke' consent and let the Court know you've changed your mind? If no, ask your child's caseworker to explain, or seek legal advice.

See section 'I'd like more information' at the end of this booklet.

An adoption application has been sent to Court

This section looks at the Court process.

It explains what to do if you want to oppose the open adoption at Court, and what will happen if you don't oppose it.

It also explains what will happen in Court, and what the judge may want to know from you if you oppose the open adoption.



AN ADOPTION APPLICATION HAS BEEN SENT TO COURT

What happens if I don't oppose the open adoption?

You receive a notice saying that an adoption application has been given to the Court.

You can discuss the application with a lawyer.

You have 14 days to decide if you want to oppose the open adoption.



If you take no action, the application is allocated to a judge.

At any time, usually within 60 days, the judge considers the application.

The judge decides if open adoption is in your child's best interests and may make an order.

How do I oppose the open adoption?

You receive a notice saying that an adoption application has been given to the Court.

Within 14 days, you must tell the Court if you oppose the open adoption and you want to attend Court to explain why.

Talk to a lawyer for some advice on the Court proceedings.

The Court sets a date for a directions hearing, where the judge outlines the steps in the Court process.



You receive documents which show why the Department or the adoption agency supports the open adoption; you need to provide information saying why you oppose it.

At the preliminary hearing the judge asks and listens to your views and your reasons.

The judge may recommend mediation as a way to resolve differences.

At the final hearing the judge considers further evidence before making a decision.

What should I say to the judge?

Remember: your lawyer is the best person to talk to about this.
You may want to explain...

Why you don't want the open adoption to go ahead, including your reasons for thinking it might not be best for your child.

Options instead of open adoption that you think would be better, including leaving things the way they are.

Why you think the arrangements in the Adoption Plan are not the best for your child, and what you would rather see.



The Court process

Court action has started for the open adoption of my child.

If the Department or the adoption agency has filed an adoption application for your child, you will receive a Notice of Application for Adoption Orders.

The notice tells you that Court action has started for the open adoption of your child. You need to decide whether you want to oppose the open adoption order in Court.

- If you oppose the open adoption, you will be expected to attend Court and tell the judge why you don't agree with it.
- If you don't oppose, the judge will make a decision in chambers (in the office).

You may want to talk to a lawyer to help you consider what is involved. You may also want to see a counsellor to talk about how the adoption application is making you feel.



Remember

An open adoption can happen without your consent.

See section 'I've been asked to consent to my child's open adoption' on page 31.

You might also receive another kind of notice, called Notice of Intention to Seek a Consent Dispense Order. You will get this notice if your child is under 12 and you have not given your signed consent to the open adoption. This notice means that the Court has been asked to rule that your consent is not needed.

How much time do I have to oppose my child's open adoption?

You have 14 days from the date you get the Notice of Application to lodge a form called a Notice of Appearance. Lodging this form tells the Court that you want to appear in Court to explain why you oppose the open adoption.

What will happen if I don't oppose the open adoption?

There are many reasons why parents don't oppose the open adoption. Some of the reasons parents might consider when deciding whether or not to oppose are similar to the information found in the section 'About consent' on page 31.

If you do not oppose the open adoption in Court, the judge will consider the application and make a decision based on what is best for your child.



Next steps

The next section talks about the Court process when a parent is opposing the open adoption.

If you are **not** opposing the open adoption, see section 'My child has been adopted', on page 45.

The Court process continued

I want to oppose the open adoption. Who should I speak to?

You are strongly encouraged to seek legal advice as soon as possible.

A legal representative can help you to:

- consider your reasons for opposing the open adoption, and put them into words
- organise the next steps on your behalf
- negotiate family time with the Court and other legal representatives
- prepare your evidence in a form that is accepted by the Court
- prepare for your appearance at Court so that you know what is expected and you feel ready.

See section ‘I’d like more information’ on page 57 for details of legal support services that may be able to assist you.

Who can help me to fill out the form?

Your lawyer or Legal Aid NSW can help you to fill out the Appearance form.

The address of the Supreme Court is:

Street Address

Supreme Court
of New South Wales
Law Courts Building
184 Phillip Street
SYDNEY NSW
AUSTRALIA 2000

Postal Address

The Registrar, Equity Division
Supreme Court of NSW
GPO Box 3
SYDNEY NSW
AUSTRALIA 2001

What do I need to give the Court?

Provide the Court with two copies of your Notice of Appearance. The Court will give a stamped copy back to you.

What happens next?

After you lodge a Notice of Appearance, the case is allocated to a Supreme Court judge, who sets a date for a ‘directions’ hearing. You will be given at least five days’ notice of this date.

What happens at the directions hearing?

The proceedings of the Court usually run over a number of months. They start with a directions hearing. This hearing is held to decide which people are ‘parties’ to the Court proceedings – people who are directly involved. It is also held to decide what will happen next, and when it will happen. This hearing doesn’t aim to make decisions about the adoption application.

If you are represented by a lawyer, you don’t need to attend the directions hearing.

At the directions hearing, the judge will acknowledge that you wish to oppose the open adoption. If there is any other person who wishes to oppose the open adoption, the judge can make an order ‘joining’ that person as a ‘defendant’. Otherwise, you will be the only defendant. The Secretary of the Department is known as the ‘plaintiff’, which is the party that started the Court action.

The Court process continued

The Court makes orders setting out a timetable for the Court process, including when you will be provided with the Secretary's evidence, and when you have to provide your evidence. A good example of evidence you might provide is an affidavit – a signed statement by you that gives your reasons for opposing the open adoption.

The Court will 'adjourn' (break) the proceedings until a preliminary hearing. The Court will try to schedule the hearing within three months of the preliminary hearing.

Will I know what the Department is going to tell the judge?

Yes. Before the preliminary hearing you and your lawyer will be given a copy of the Department's evidence. This will include reports on what you, your child and their carers have said about the proposed open adoption. It will also include an Adoption Plan and a cultural plan that the carers will follow if an adoption order is made.

What should I tell the judge?

You should speak to your lawyer about what you want to tell the Court.

Some parents don't want open adoption to be considered. They may want to suggest a different care arrangement for their child. They may want to provide evidence about their own capacity to provide parenting, about changes in their circumstances, and about their relationship with their child.

Some parents are willing to consider open adoption but don't agree with the family time planned after open adoption or the plans to meet their child's cultural needs as set out in the Adoption Plan.

You should consider the things you want to say and whether there are any people you would like to come to Court as witnesses.



My matter is already in Court and I have no one representing me

Contact the adoptions clerk at the Supreme Court to find out whether a lawyer will be at Court to help you: 1300 679 272.

The Court process continued

What will happen at the preliminary hearing?

At the preliminary hearing, the judge will want to hear brief evidence for and against the open adoption. You and your child's carers will be asked questions under oath. Your child will not have to go to Court, unless they want to be there, and it is considered in their best interests to be present. The questions are usually asked by the judge, with no cross-examination.

The purpose of the hearing is to focus on the best interests of your child including what the real issues and concerns are, and to help each party understand the other's position.

Although it is not common, a judge has the authority to make an order –including an order of adoption –at the preliminary hearing.

The Court will try to schedule the final hearing within three months of the preliminary hearing.

Why are we going to mediation?

At any point during the legal proceedings, the judge or another party may recommend mediation. Mediation means putting a trained person 'in between' the parties so that they can discuss differences away from the Court.

The aim of mediation is for both parties to come to an agreement. For example, there may be an agreement to change the type, or the amount of family time spent after open adoption. There may be an agreement to change the ways that your child learns about, or explores their cultures. In that case, the Adoption Plan may be updated.

No matter what the outcome, what is said in mediation is confidential, but the judge will be provided with the outcome.

What will happen at the final hearing?

The final hearing relies upon evidence. Witnesses may be cross-examined. You may be required to answer questions from the lawyer representing the Department. The final hearing may include expert evidence, such as the observations and opinions of caseworkers, psychologists, the adoption assessor or other people who have worked with your child.

A final hearing usually lasts between one and two days. The judge may make a decision about the open adoption in Court. Sometimes the judge will 'reserve judgement' to allow more time to consider all of the evidence. In these cases the judge will give an order at a later date.

Court proceedings that may occur if I oppose my child's open adoption

Directions Hearing

The judge will join any people (parties) who are directly involved in the Court proceedings and set a timetable for further evidence.

If you are represented by a lawyer, you may not need to attend the directions hearing.

Preliminary Hearing

You should attend the preliminary hearing.

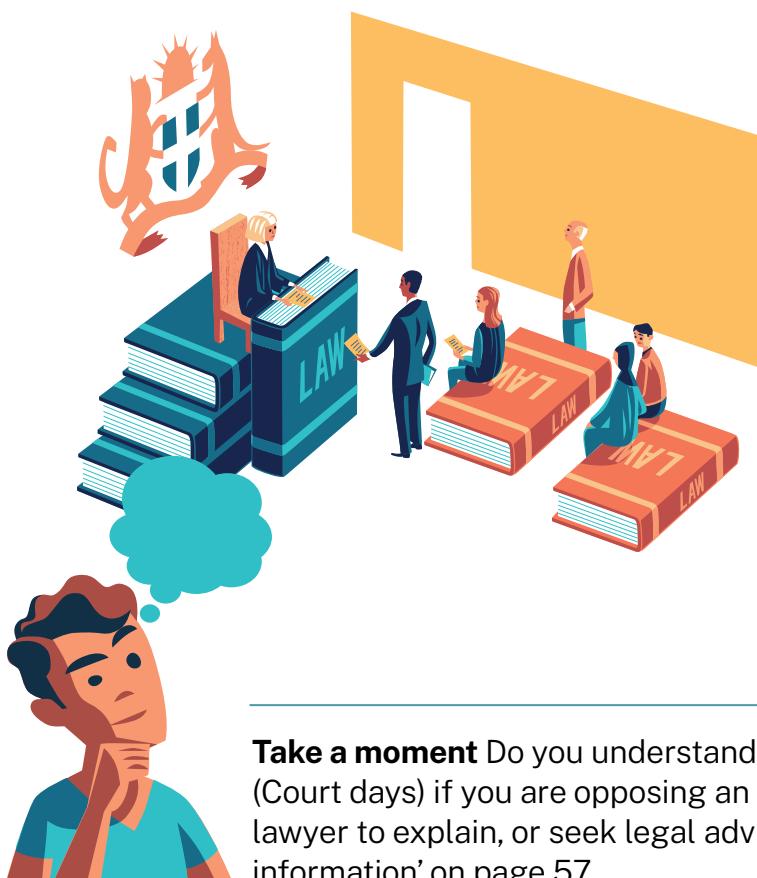
The judge will hear evidence in person and under oath, directly from you and your child's carers, with no cross-examination.

Final Hearing

You should attend the final hearing.

Witnesses may be cross examined and you may have to answer questions from the lawyer representing the Department. Expert evidence may also be included.

A judge can make an order at the end of the hearing OR may give an order at a later date to allow time to consider



Remember

A judge has the authority to make an order of adoption at any stage of the proceedings, including the directions and preliminary hearings.

Take a moment Do you understand why there are different hearings (Court days) if you are opposing an open adoption? If no, ask your lawyer to explain, or seek legal advice. See section 'I'd like more information' on page 57.

My child has been adopted

This section looks at what happens after the Court has made an adoption order. It outlines the legal effects of the open adoption. It looks at the emotional affects you and your child may experience as a result of the open adoption. It also looks at the type of information you and parties to the open adoption can access about your child.



What are the legal effects of my child's open adoption?

Your child becomes a legal member of their adoptive family.

The adoptive parents make all the parental decisions about your child's upbringing.

Your child has the right to inherit from their adoptive parents.



Your child can take their adoptive family's last name if they wish, unless Court orders were made about names.

Your child gets two new birth certificates.

Your child's agency and caseworker no longer play a role in making decisions about your child.

For more detail, go to page 49

How might I feel?

Decisions about open adoption can be hard and at times confusing for parents.

Be reminded of the loss you felt when your child was placed in out-of-home care.

Feel distress that a final decision about your child's care has been made.

Find that family time with your child brings a mixture of happiness and sadness.

Find it hard that your child will legally have a new family.



Feel a sense of closure and be glad that the Department or the agency are no longer involved.

Have positive feelings about what open adoption is providing for your child.

Feel an ongoing sense of loss.

Experience struggles with your mental health.

For more detail, go to page 50

How might my child feel?

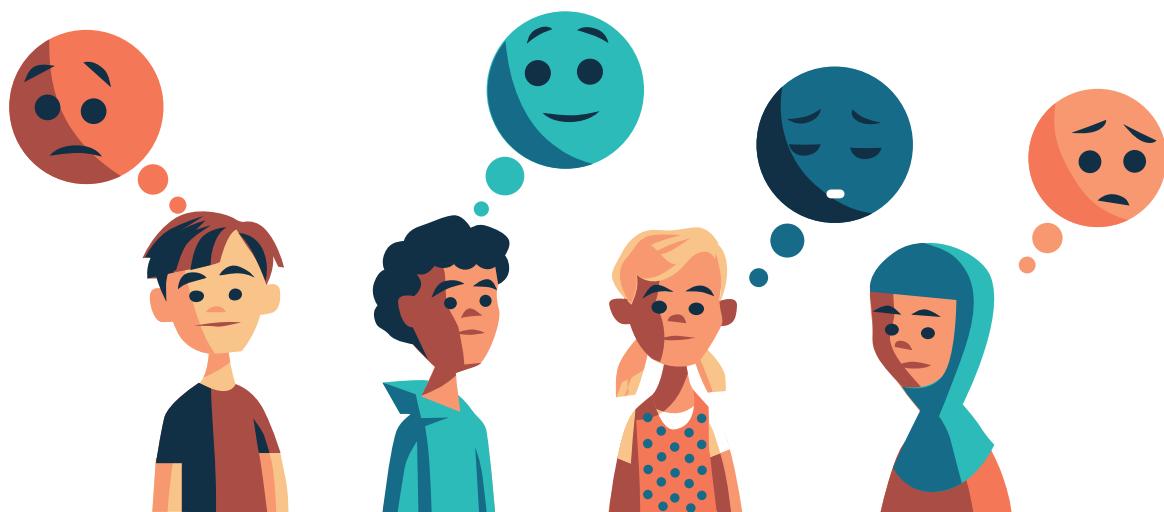
It's hard to know. It is likely that they will experience mixed feelings.

They can finally relax because they know for sure where they will live and grow up.

Glad they are no longer a foster child.

Glad to know there is a plan to stay connected with their family.

They really 'belong' and are a part of their adoptive family.



Upset or confused if their parents don't support their open adoption.

Pulled in two directions, between their parents and adoptive parents.

Worried they will lose family time with their family.

Confused about who they are.

For more detail, go to page 52

Adoption orders

What happens when an adoption order is made?

An adoption order made by the Court transfers all parental rights and responsibilities, guardianship and custody of your child to their carers. It is permanent. Their carers become their legal adoptive parents for the rest of their life.

Can I appeal the decision?

Appeal and discharge (cancelling) and an adoption order are two different things. You should obtain independent legal advice about whether you can appeal.

You may be able to apply to the Court to ask for the adoption order to be discharged.

It is very unlikely that the Court's decision will be changed. That is because the only legal reason for discharging an adoption order are:

- the adoption order, or any consent to the open adoption, was obtained by fraud, duress or other improper means; or
- there is some other exceptional reason.

What changes as a result of an adoption order?

New birth certificates

Once an adoption order is made, the Registrar of Births, Deaths and Marriages issues two new birth certificates for your child:

1. An amended birth certificate that will say your child's adoptive parents and any adoptive siblings have been your child's family since birth.
2. An Integrated Birth Certificate (IBC) that will include information about you as the birth parent, any birth siblings (like the information on their original birth certificate) as well as your child's adoptive parents and any adoptive siblings.

Both birth certificates can be used for legal purposes, allowing your child to use whichever one they prefer. The original birth certificate can no longer be used for legal purposes. See 'Introducing Birth Certificates' factsheet at the end of this booklet.

Your child will become a legal member of their adoptive family and they can take their adoptive family's surname if they wish, unless Court orders are made about names.

Family time (contact)

Open adoption means that when a child is adopted, they are supported to know as much information about who they are and stay connected to family and cultures.

After an adoption order, the Adoption Plan takes effect. See page 23 for information about Adoption Plans.

Inheritance

When an adoption order is made, your child:

- has the right to receive an inheritance from their adoptive parents after they pass away
- does not automatically have the right to receive your money or property after you pass away.

If you wish to provide for your child after your death, you will have to mention them specifically in your will.

Inheritance matters should be discussed with a lawyer.

Emotional effects of open adoption on me

How might I feel in the short term?

Parents tell us that when their child has been adopted from out-of-home care, it can be hard for them. You might go through some of the experiences below:

- It can be a reminder that you lost the rights and privileges of parenting when your child was removed and placed in out-of-home care.
- It can bring back the feelings of loss, and sometimes anger, that you felt at that time.
- It can end your last hope that your child may come home.
- It can bring a sense of finality which can be very upsetting.
- It can be upsetting knowing that your child has a new birth certificate and family name.
- It can raise fears about losing family time with your child because there is no more agency involvement.

Some parents may feel positive. For example, you might be:

- Relieved that the legal process is over.

- Reassured that your child has a permanent loving home for life.
- Glad to see that your child is the same person, with the same nature, and that open adoption does not change who they are inside.
- Confident that open adoption is the best choice for you now and in the future.
- Glad that you can continue to stay close to your child and have regular family time.

How might I feel in the long term?

It is likely that you will always feel some sense of loss. You might go through some of the following:

- Some parents have said that their mental and emotional health was affected and they needed to get counselling or support.
- Ongoing family time with your child means that you won't have to wonder how your child is or what they look like, but it is a constant reminder that someone else is taking care of them.
- Family time with your child may bring a mixture of happiness and sadness.

- Your biological connection can never be taken away, but it can be difficult knowing that your child now has another parent.
- Your relationship with your child may be easier at some times than others. You might go through stages where you find it hard to maintain family time with your child because of your feelings of loss and regret.
- Some parents may worry about how their child will maintain a connection with their community and cultures.

You may also feel:

- growing confidence that family time with your child will not be 'taken away' and that you will always be a part of their life
- positive about the things your child is achieving and the future that they have
- that you can move on positively with your life and not be 'stuck in the past' and the feelings of that time.

See section 'I'd like more information' on page 57 to find support services that might be available to you.

Emotional effects of open adoption on me continued

How might I feel about my child's adoptive parents?

Your relationship with your child's adoptive parents may be difficult at times. You may have hard feelings about them for having your child in their care. These feelings are not likely to be as strong if you are able to keep in regular contact with your child.

You may also have a good relationship with your child's adoptive parents because family time is going well and you are both proactive with staying in contact.

How might I feel about myself?

It can be difficult being a parent who is not raising your child. People in your life may not know how to acknowledge you as a parent and you may feel hurt and disappointed by the way they handle this.

Special occasions like Mother's Day /Father's Day or your child's birthday can be hard. You might not want to tell some people that your child has been adopted, and you might find it difficult to think of yourself as being a parent.

How might I feel about my child?

Some parents feel positive about the benefit open adoption is providing for their child. They may have:

- chosen to give consent to their child's open adoption because they felt that their child was happy and well looked after
- a good relationship with their child's adoptive parents
- comfort in knowing that their child will remain with a family who will always love and care for them.

Other parents may feel that the adoptive family doesn't 'get' their child the way they do. They may not:

- share or understand the things that are important to their child's adoptive family
- have a lot of interest in the activities that the adoptive family is involved in, and they may feel some frustration that their own preferences are not as important to the adoptive family.



Take a moment

Do you have strong feelings about the open adoption of your child?

If yes, consider seeking professional counselling or linking with people who have a shared experience.

See section 'I'd like more information' on page 57 for contact options.

Emotional effects of open adoption on my child

How might my child feel?

It is hard to predict how your child will feel after open adoption. Some children have said that after being adopted they feel:

- upset or confused if their birth parents don't support their open adoption
- sad that they couldn't live with their birth family
- worried that they will lose family time with their parents, siblings or other important family members

- pulled in two directions, between their birth parents and adoptive parents
- confused about who they are
- worried about 'keeping the peace' between their families.

Some other children have said they feel:

- they really 'belong'
- secure and safe, because they now know for certain where they will be staying

- glad that they are no longer a foster child or a 'child in care'
- glad to know there is a plan to stay connected with birth family
- more relaxed and happy now that a final decision has been made.



Changing family time after an adoption order

Can I change the Adoption Plan?

If circumstances change and the Adoption Plan no longer meets the best interests of your child, get the help of a post-adoption service such as the Department's Adoption Information Unit (see page 58). They can help everyone to reach an agreement to prevent going to Court.

If an agreement can't be reached, legal options are available. Anyone who is a party to the Adoption Plan (has signed it) can apply for a formal review of that plan by the NSW Supreme Court.

If you are part of a registered Adoption Plan, you have the right to ensure the plan is followed. If you believe that the registered Adoption Plan isn't being followed, you may apply to the NSW Supreme Court to have the plan enforced. If you are unsure of your rights and obligations, get independent legal advice as soon as possible. See section 'I'd like more information' on page 57.

Do I have to go to Court to ask for a review of the Adoption plan?

No. If arrangements have changed and you are not able to reach an agreement with your child's adoptive parents, you can ask the Department's Adoption Information Unit for help.

An open adoption needs to meet the changing needs of children as they grow up. Being flexible and considering the changing needs of the child and of each family will make it easier for everyone to remain connected and enjoy time spent together. Ideally, it is hoped that both families understand these changes and are willing to reach an agreement that suits everyone.

What happens after a review of an Adoption Plan by the Court?

The Court makes an order that they consider is in the best interests of the child given the circumstances.

The Court may:

- order changes to the plan, or
- confirm the existing plan without changes, or
- revoke (cancel) the plan (however this only happens in very rare circumstances).

If the Court makes changes to the Adoption Plan, the new plan replaces any previous Adoption Plan.

Information sharing in an open adoption

In an open adoption, parties are able to give and receive important information about each other. This information can help parties understand each other better and allow relationships to grow. If your child is adopted, the Department will send you the booklet 'Adoption Act 2000: How it affects you'. This booklet has information about:

- who can receive information about you
- what information you can get about your adopted child now and in the future
- what information non-adopted siblings can get about your adopted child.

There are different types of information you can get, depending on whether your child is over or under 18 when you are asking for it. The booklet will provide detail, but here are the key facts:

- Your child can know about you and your cultures. This can help them develop a full sense of identity.

- You and your other children can know about your child's life. This can help to ease worries you and your other children may have about whether your child is safe, well and happy.
- You are all able to connect with each other and form relationships.
- If your child's adoptive parents know information about you and your cultures, they will be able to share with your child and answer questions they may have about you and your cultures.

What information can I access now?

At any time, you can ask the Department's Adoption Information Unit or the adoption agency that arranged your child's open adoption, for information that does not reveal their full name and where they live. This is called non-identifying information and can include:

1. Information about your child's life before they were adopted:
 - Photos.
 - Medical and school reports.

- Original birth certificate.
- Children's Court documents.
- Adoption consent forms if you signed them.
- Information about your child's foster carers (now adoptive parents) and your child's life with them.
- Any letters and photos the carer gave to the Department or the agency to give to you.
- Your child's hobbies and interests at the time.

2. Information about your child's life now:

- Hopefully, the type of family time arrangements set out in your child's Adoption Plan are allowing you to learn about your child's life now.
- If the Adoption Plan is not doing this, the Department or your child's agency can share non-identifying information with you about your child's life. They can also support the adoptive parents to share information that has been agreed to in the plan.

Information sharing in open adoption continued

It has been difficult for me to stick to the Adoption Plan. How can I reconnect with my child?

There are many reasons why you may not have been able to stick to your child's Adoption Plan.

If you want to reconnect with your child, the Department's Adoption Information Unit or your child's agency can provide you with non-identifying information such as:

- a copy of the Adoption Plan
- messages/photos which may have been left for you by your child's adoptive family
- information about your child's life – their interests, hobbies, and what life with their adoptive family looks like
- if your child's adoptive placement has broken down.

They can also help you to make contact with your child and their adoptive family to restart your involvement in your child's Adoption Plan, if this is what you want.

What should I do if I want identifying information about my child?

You can apply to the Department for an Adoption Information Certificate (AIC) to obtain identifying information about your child and their adoptive parents.

Identifying information can include your child's:

- full adopted name
- date of birth
- address at the time the open adoption was arranged.

Some documents that have identifying information about your child are their:

- new birth certificate and Integrated Birth Certificate
- birth record – which has the adopted person's names, before and after their open adoption, and the names of all of the people involved in the open adoption
- adoption Court order.

Before an AIC can be provided to you, an assessment must be made to make sure that giving you this identifying information would not pose any risk to the safety, welfare or wellbeing of your child or their adoptive parents. If risks are identified, it is possible that an AIC will not be issued.

If an AIC cannot be issued, an Adoption Information Unit caseworker will contact you to discuss your options.

If an AIC is issued, you can apply for further identifying and non-identifying information which will help you to know about your child and reconnect with them.

You don't need permission from the Department to access specified identifying information about your child after they turn 18. You may apply directly for information from the Registry of Birth, Deaths & Marriages, from the Department, or from any other agency that might have the information you want.

What identifying information will my child and the adoptive parents have about me?

After an adoption order is made, your child's adoptive parents will be given a copy of the adoption Court order and the child's original birth certificate. These documents will record your name and may record your address at the time of your child's birth. If you have concerns about the type of information that will be passed on to your child and their adoptive parents about you, you should ask your child's open adoption caseworker to explain:

- how the information may help your child and their adoptive parents
- how the information will be used, stored and passed on
- how you may be able to request a change or update of the information.

Information sharing in open adoption continued

What information can my other children have about their adopted brother or sister?

The information your non-adopted children can receive will depend on whether they and their adopted sibling are under or over 18.

Call an Adoption Information Unit caseworker to find out more information.

Reunion and Information Register (RIR)

People who have been separated by an adoption or lost contact with a family member and want to make contact or exchange messages, can put their name on this register. When there is a matching registration of two or more people on the register, an Adoption Information Unit caseworker can help them to make contact with each other or pass on a message.

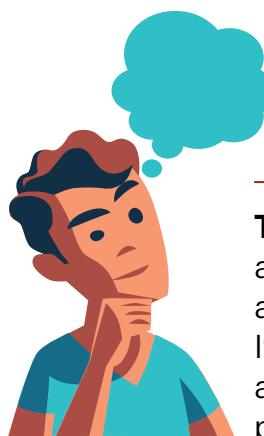
You can speak with an Adoption Information Unit caseworker to find out how to have your name entered on the Register.

What if I am worried about my child contacting me?

Some birth parents choose not to spend time with their child or receive information about them, after an adoption order is made.

If this is your wish, it is important you know that you may be contacted by your child in the future. Most adopted people and adoptive parents respect the wishes of parents who choose to have limited or no contact. However, as time goes on, many adopted people have questions that their adoptive parents cannot answer. They may also need medical information about you.

Hearing from your child unexpectedly can have a big impact, not only on you but on your extended family, especially if you have not made the adoption known to them. If family members learn about the adoption later, they can be very upset that important news had been kept from them. This can be a difficult situation to deal with.



Take a moment There are a number of rules and processes about access to information after open adoption. Would you like to save a webpage where you can find this information when you need it? If yes, go to the Department's page 'Finding information on past adoptions' (websearch: past adoptions nsw) and bookmark it OR phone the Department's Adoption Information Unit.

I'd like more information



I'D LIKE MORE INFORMATION

Open adoption service providers

Communities and Justice

Open Adoption and Permanency Services

The NSW Government's open adoption service, including services for local, special needs, intercountry, intrafamily and out-of-home care open adoptions.

Email: adoption.permanentcare@facs.nsw.gov.au

Websearch: adoption nsw

Communities and Justice

Adoption Information Unit (AIU)

The NSW Government's open adoption service, including services for local, special needs, intercountry, intrafamily and out-of-home care open adoptions.

Email: adoption.permanentcare@facs.nsw.gov.au

Websearch: adoption nsw

Barnardos Australia - Find-a-Family

A non-government agency that provides open adoption services.

Email: info@barnardos.org.au

Facebook: Barnardos Australia

Websearch: open adoption barnardos

Life Without Barriers

A non-government agency that provides open adoption services.

Email: info@lwb.org.au

Facebook: lwb

Websearch: lwb

Anglicare

A non-government agency that provides open adoption services.

Email: adoption@anglicare.org.au

Websearch: anglicare foster care adoption

Family Spirit

A non-government agency that provides open adoption services.

Email: adoptions@familyspirit.org

Websearch: family spirit adoption

Key Assets

A non-government agency that provides open adoption services.

Email: info@keyassetsnsw.com.au

Websearch: key assets

Wesley Mission

A non-government agency that provides open adoption services.

Email: dalmar@wesleymission.org.au

Websearch: wesley mission adoption

I'D LIKE MORE INFORMATION

Funded support organisations

Grandmothers Against Removal NSW (GMAR)

Advocates for the wellbeing of Aboriginal children and young people particularly their right to remain within their own families, communities and culture.

Email:

contact@grandmothersagainstremovals.com

Websearch:

[grandmothers against removals, GMAR](#)

Relationships Australia

Provides counselling and mediation services to support families.

Email: enquiries@ransw.org.au

Websearch: [relationships australia nsw](#)

Post Adoption Resource Centre (PARC)

Provides information, counselling and support to people affected by adoption. PARC also has a bookshop and library containing a range of information on open adoption.

Email: parc@benevolent.org.au

Facebook: Post Adoption Resource Centre

Websearch: [parc adoption](#)

Family Relationships Online

A national service that can link people with a local service provider to find the best support for your circumstances.

Email: enquiries@ransw.org.au

Websearch: [family relationships](#)

Aboriginal Legal Service (ALS) NSW/ACT

Provides a range of legal support in children's Care and Protection law, Family law and Criminal law. ALS assist Aboriginal and Torres Strait Islander families through representation in Court, advice and information, and referral to further support services.

Phone: 1800 733 233

Websearch: [Aboriginal legal service](#)

Legal Aid NSW

Provides a free legal advice service at all Legal Aid offices. Legal representation is available in most areas of the law subject to a means and merit test. Appointments must be made for advice.

If your adoption matter is in Court, contact the adoptions clerk at the Supreme Court to find out whether a lawyer will be at court to help you: 1300 679 272.

Websearch: [legal aid nsw](#)

The Law Society of NSW Solicitor Referral Service

Provides counselling and mediation services to support families.

Email: ereferral@lawsociety.com.au

Websearch: [the law society of nsw](#)

I'D LIKE MORE INFORMATION

Law Access NSW

A telephone-based legal information and referral service.

Phone: 1300 888 529

Websearch: law access

Community Legal Centres

Provides free legal services to support, represent and advocate for people in NSW.

Email: clcnsw@clcnsw.org.au

Facebook: Community Legal Centres NSW

Websearch: clcnsw

Community Justice Centres

Provides free mediation services to help people resolve their own disputes, including family members and former partners.

Email: cjc_info@agd.nsw.gov.au

Websearch: community justice centres

Intellectual Disability Rights Service NSW

Provides help for parents who have had children removed from their care. They can help parents understand child protection, out of home care, guardianship and open adoption systems. They can help parents speak with the Department and agency caseworkers and managers, as well as solicitors, judges and other Court staff.

Email: IntakeJAS@idrs.org.au

Websearch: idrs

Financial support services

Centrelink Service NSW

Delivers a range of payments and services for people at times of major change. Contact Centrelink to enquire about what payments and services you may be entitled to.

Websearch: Centrelink

Support organisations: members with personal experience of adoption

Adoption and Permanent Care Association of NSW (APA)

Offers support via Facebook for individuals and couples and wanting to be permanent carers and adoptive parents to children in NSW.

Facebook search: APA NSW

Attachments to read with this booklet

- **Integrated Birth Certificate factsheet**

Information on the new birth certificates issued when an Adoption Order is made.

- **Sample Consent and Revocation forms**

Please do not fill out or sign these forms as they are samples only.

If you decide to consent or take back (revoke) your consent, you will be given the actual forms.

The sample forms in this section include:

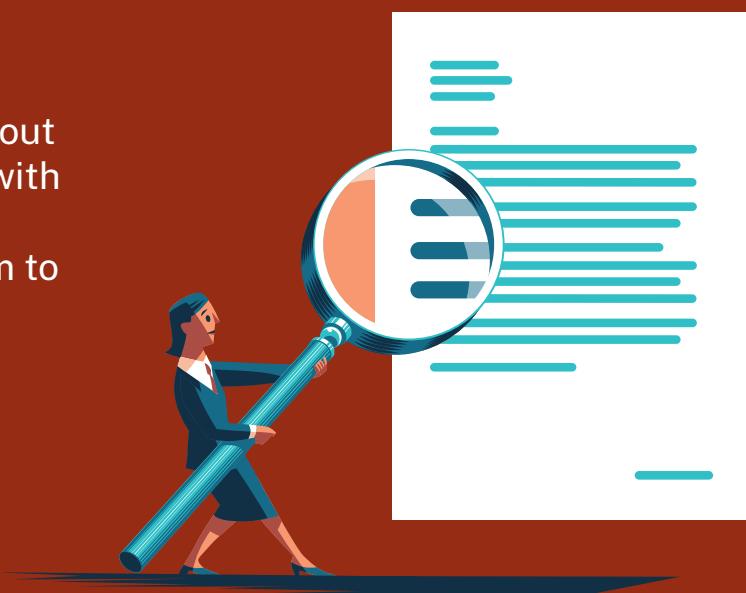
Providing consent to your child's open adoption

- Statement of a counsellor
- Statement of person qualified to witness a consent
- Specific and General Consent to adoption of a child
- Statement of a person qualified to witness consent at time consent is signed

Taking back (revoking) consent to your child's open adoption

- Revocation Notice

If you have questions about the forms, you can talk with your child's caseworker or a lawyer and ask them to explain the details.



Introducing Integrated Birth Certificates for adopted people

The Adoption Legislation Amendment (Integrated Birth Certificates) Bill 2020 authorises the issuing of Integrated Birth Certificates to adopted persons in NSW by amending the Adoption Act 2000 and the Births, Deaths and Marriages Registration Act 1995.

What is an integrated birth certificate?

An Integrated Birth Certificate (IBC) is a new form of birth certificate that includes information about an adopted person's parents and siblings at birth, as well as their parents and siblings after adoption.

Why is this reform being introduced?

When an adoption order is made in NSW, the Registrar of Births, Deaths and Marriages (BDM) issues a post-adoptive birth certificate for the adopted person. The new birth certificate that is issued, records the child's adoptive parents and makes no reference to the child's parents at birth.

Post-adoptive birth certificates are consistent with the legal effect of adoption but do not reflect contemporary "open" adoption practices, which promotes connection to birth family and cultural heritage wherever possible.

An IBC better reflects the full identity of an adopted person.

Will IBCs be recognised as a legal document?

An IBC and post-adoptive birth certificate are both valid identity documents, allowing an adopted person to use whichever birth certificate they prefer for legal purposes.

What would happen when the Bill commences?

Where a person is adopted and the adoption is registered in NSW, the Registrar of BDM will automatically issue both a post-adoptive birth certificate and an IBC.

People adopted prior to the commencement of the reform will be able to apply for an IBC.

How do people adopted before the commencement of the reform apply for an IBC?

If the person was adopted on or after 1 January 2010:

- The Registrar of BDM can issue an IBC to the adopted person on application. The consent of the person's adoptive parents will be required if they are under 18 years of age.

If the person was adopted before 1 January 2010:

- The Registrar of BDM will require an Adoption Information Certificate from the Department of Communities and Justice before issuing an IBC to the adopted person. If the person is under 18, the application can only be made with the consent of their adoptive parents and birth parents.

Adoptive parents and birth parents can also apply for an IBC in certain circumstances.

For more information visit

Registry of Births, Deaths & Marriages
www.nsw.gov.au/births-deaths-marriages

Department of Communities and Justice
www.facs.nsw.gov.au/families/adoption

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

STATEMENT OF PERSON QUALIFIED TO WITNESS A CONSENT (IMMEDIATELY BEFORE CONSENT IS SIGNED)

ADOPTION ACT 2000 (NSW) Section 62(2); 184 and 185
ADOPTION REGULATION 2015 (NSW) Clause 81 & 82

I, _____
first _____ middle name/s _____ last _____
(full legal name of person)

of _____
(full address - number, street, suburb, state)

declare that:

1. I am a _____

(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.

2. I confirm I am not an officer of the Department, or an employee of an accredited adoption service provider who is the caseworker for the proposed adoptive parents.

3. I confirm I am not the registered counsellor of the person signing this instrument.

4. I certify I have sighted the following document(s) to confirm the identity of the person named below who is giving consent:

5. I confirm I am not aware of any mental, emotional or physical unfitness of the person named below to give consent.

6. I certify I am satisfied that:

_____ first _____ middle name/s _____ last _____
(full legal name of person giving consent)

- Has been provided with a copy of the instrument of consent and the mandatory written information at least 14 days before the consent was signed ; AND
- Has been given ample opportunity to read the instrument of consent and mandatory written information and understands the effect of signing the consent ; AND
- Has been counselled within the prescribed (period not more than 30 days or less than 72 hours before giving consent) and understands the effects of giving consent; AND
- The person giving consent is a parent of the child for whom consent is being given; AND
- Is signing the consent free from threat, inducement or influence of any kind as set out in section 184 of the *Adoption Act 2000*.

7. I confirm I have sighted (*strike out and initial* paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent):

- (where the person giving consent is under 18 years of age) a report prepared by _____ (a counsellor or other appropriate expert), dated _____, stating that the above named person is capable of understanding the effect of the consent.
- (where the person giving consent is a birth parent under 18 years of age) a letter prepared by _____ (a solicitor), dated _____, stating that the above named person has received independent legal advice concerning the adoption.
- (where the person giving consent has participated in an assessment of their fitness to give consent) a "Certificate of Fitness" prepared by _____ (a psychiatrist or registered psychologist) dated _____ stating that the above named person is in a fit condition to give consent.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

- (where the child is Aboriginal)
 - a “Statement of Aboriginal Counselling” dated _____ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
 - a “Statement – Refuse Aboriginal Counselling” dated _____ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Aboriginal customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.
- (where the child is Torres Strait Islander)
 - a “Statement of Torres Strait Islander Counselling” dated _____ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
 - A “Statement – Refuse Torres Strait Islander Counselling” dated _____ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Torres Strait Islander customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.

Signature of witness: _____

Dated this _____ day of _____, _____
number month year

WHO CAN WITNESS AN ADOPTION CONSENT

The following persons are prescribed in Clause 81 of the *Adoption Regulation 2015 (NSW)* to witness consent to adoption:

- (a) if the instrument is signed in New South Wales:
 - (i) the Secretary
Delegates of the Secretary include Family and Community Services Caseworker, Casework Specialist, Manager Casework or Manager Client Services.
NB: Clerical/Administrative staff of Family and Community Services are not delegated to witness a consent.
 - (ii) an independent lawyer
Consent to adoption is not to be witnessed by the lawyer who acts for the applicant(s) for an adoption order in respect of the child who is the subject of the consent, or by any partner or employee of the lawyer.
 - (iii) a principal officer of an accredited adoption service provider.
 - (iv) a registered counsellor (under Clause 81 *Adoption Regulation 2015*) (not being the counsellor of any person signing the instrument or a person who is not independent of such a counsellor)

Consent to adoption is not to be witnessed by an Officer of the NSW Department of Family & Community Services or the employee of an accredited adoption service provider or designated agency who is the caseworker for a person adopting the child. .

- (b) if the instrument is signed in another State or in a Territory: a person authorised by the law of that State or Territory is to witness a consent to the adoption of a child.
- (c) if the instrument is signed outside of Australia :
 - (i) an Australian Consular officer as defined in section 26 of the Oaths Act 1900
 - (ii) a judge of a court or magistrate of that place
 - (iii) a person authorised by the law of that place to attest to a consent to the adoption of a child.

OFFENCES

It is an offence under Section 177 of the *Adoption Act 2000* for any person to give or receive payment or reward in relation to the giving or signing of consent to adoption.

It is an offence under Section 184 of the *Adoption Act 2000* to use any force or threat to influence a person or child to sign or not to sign an instrument of consent.

It is an offence under Section 185 of the *Adoption Act 2000* for a person to witness a consent without being satisfied that the person signing the consent is a parent or guardian of the child, that the person is signing free from any threat, inducement or influence, that the person understands the effect of the consent and that the consent bears the date on which it is signed by the person giving the consent.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

SPECIFIC CONSENT TO ADOPTION OF A CHILD

(Parent giving consent)

ADOPTION ACT 2000 (NSW) Section 53(1)(b) & 61
ADOPTION REGULATION 2015 (NSW) Clause 80(3)

I, _____
first _____ middle name/s _____ last _____
(full legal name of person)

of _____
(full address - number, street, suburb, state)

being the _____
(mother/ father)

of _____
first _____ middle name/s _____ last _____
(full legal name of child)

born on the _____ day of _____ , _____
number month year

at _____ in the State of _____

give consent to the adoption of the above named child by:

(full legal name of proposed adoptive parent/s)

of _____
(address of: proposed adoptive parents or relevant Community Service Centre or relevant NGO Out of Home Care Service or relevant Accredited Adoption Service Provider)

being the child's _____
(description of their relationship to the child eg. authorised carer, step parent, aunt, uncle)

who has cared for, lived with and/or had a relationship with the child for _____ years.

In giving consent to the adoption:

- I received a copy of the instrument of consent and the mandatory written information on _____ being at least 14 days before this day.
- I received counselling pursuant to section 63(1) of the Adoption Act 2000 on _____ being no more than 30 days and no less than 72 hours before this day.
- I have been informed and understand that on the making of the adoption order my legal rights as a parent to the child will cease and parental rights and responsibilities will be transferred to the adoptive parent(s), and that for all legal purposes the child will be considered to be the child of the adoptive parent(s).
- I understand that I have the right to revoke (withdraw) my consent for adoption before 5pm on _____ which is 30 days beginning on the day on which I signed consent (Day 1 being the day after signing) by giving notice in writing to the Registrar of the Equity Division, Supreme Court, Queens Square, Sydney, NSW.
- I understand that if the Court is not satisfied that the best interests of the child will be promoted by adoption the Court has the power to make alternate orders in relation to the parental responsibility of the child, for example a parenting order under the Family Law Act or an order declaring the child to be under the parental responsibility of the Minister.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

- I have been informed of my rights under the *Adoption Act 2000*.

Strike out and initial paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent:

- I am under 18 years of age. I have received independent legal advice concerning the adoption before signing this instrument of consent.
- I am under 18 years of age. I have met with a counsellor or other appropriate expert regarding my capacity to understand the effect of this consent.
- The child is Aboriginal. In accordance with section 64 of the *Adoption Act 2000*, I have been given adoption counselling prior to signing the instrument of consent; OR I have been offered adoption counselling but refused it. I have been provided with written information on Aboriginal customs and culture on _____ (being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- The child is Torres Strait Islander. In accordance with section 65 of the *Adoption Act 2000*, I have been given adoption counselling prior to signing the instrument of consent; OR I have been offered adoption counselling but refused it. I have been provided with written information on Torres Strait Islander customs and culture on _____ (being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- I hereby request and authorise:
 - the Secretary of the NSW Department of Family & Community Services; OR
 - the Principal Officer of _____ (Name of Accredited Adoption Service Provider)

to make arrangements for the adoption of the above named child by persons approved as fit and proper to adopt a child and selected as suitable to adopt the child, and specified above.

Signature of person giving consent: _____

Dated this _____ day of _____ , _____ year
number month year

Signature of Witness: _____

Qualification of Witness: _____

(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

**STATEMENT OF PERSON QUALIFIED TO WITNESS CONSENT AT TIME
CONSENT IS SIGNED (IMMEDIATELY AFTER CONSENT IS SIGNED)**

**ADOPTION ACT 2000 (NSW) Section 62
ADOPTION REGULATION 2015 (NSW) Clause 81**

On the _____ day of _____, _____ I witnessed
number month year

first middle name/s last
(full legal name of person giving consent)

Sign the instrument of consent to the adoption of:

first middle name/s last
(full legal name of child)

I confirm that the instrument of consent bears the date on which it was signed by the person giving consent.

Signature of witness: _____

Dated this _____ day of _____, _____
number month year

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

STATEMENT OF COUNSELLOR

(Parent giving consent)

ADOPTION ACT 2000 (NSW) Section 61(3) & 63

I certify that I have:

- Provided counselling in relation to
 - the legal effect of signing the instrument of consent,
 - the procedure for revoking consent,
 - the effect of the mandatory written information,
 - the emotional effects of adoption and
 - the alternatives to adoption including for the parents, the feasibility of keeping their child

to _____
first _____ middle name/s _____ last _____
(full legal name of parent)

In relation to:

_____ first _____ middle name/s _____ last _____
(full legal name of the child)

born on the _____ day of _____, _____
number month year

on _____
(date/s counselling took place)

I certify that the above named person understands the effects of signing the instrument of consent to Adoption pursuant to section 61(3) of the Adoption Act 2000.

I certify that on this date I am on the Register of Counsellors in accord with Clause 78 of the Adoption Regulation 2015

Name: (print) _____

Signature: _____

Date: _____

I am the above named parent of the child named above.

I have received counselling as described above.

Signature: _____

Date: _____

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

STATEMENT OF PERSON QUALIFIED TO WITNESS A CONSENT (IMMEDIATELY BEFORE CONSENT IS SIGNED)

ADOPTION ACT 2000 (NSW) Section 62(2); 184 and 185
ADOPTION REGULATION 2015 (NSW) Clause 81 & 82

I, _____
first _____ middle name/s _____ last _____
(full legal name of person)
of _____
(full address - number, street, suburb, state)

declare that:

1. I am a _____
(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.
2. I confirm I am not an officer of the Department, or an employee of an accredited adoption service provider, who is the caseworker for the proposed adoptive parents.
3. I confirm I am not the registered counsellor of the person signing this instrument.
4. I certify I have sighted the following document(s) to confirm the identity of the person named below who is giving consent:

-
5. I confirm I am not aware of any mental, emotional or physical unfitness of the person named below to give consent.

6. I am satisfied that:

first _____ middle name/s _____ last _____
(full name of person giving consent)

- Has been provided with a copy of the instrument of consent and the mandatory written information at least 14 days before the consent was signed ; AND
- Has been given ample opportunity to read the instrument of consent and mandatory written information and understands the effect of signing the consent ; AND
- Has been counselled within the prescribed period (not earlier than 5 days after the birth of the child and not more than 30 days or less than 72 hours before giving consent) and understands the effects of giving consent; AND
- The person giving consent is a parent of the child for whom consent is being given; AND
- Is signing the consent free from threat, inducement or influence of any kind as set out in section 184 of the *Adoption Act 2000*.

7. I confirm I have sighted (*strike out and initial* paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent):

- (where the person giving consent is under 18 years of age) a report prepared by _____ (a counsellor or other appropriate expert), dated _____, stating that the above named person is capable of understanding the effect of the consent.
- (where the person giving consent is under 18 years of age) a letter prepared by _____ (a solicitor), dated _____, stating that the above named person has received independent legal advice concerning the adoption.
- (where the person giving consent has participated in an assessment of their fitness to give consent) a "Certificate of Fitness" prepared by _____ (a psychiatrist or registered psychologist) dated _____ stating that the above named person is in a fit condition to give consent.

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- (where the child is Aboriginal)
 - a "Statement of Aboriginal Counselling" dated _____ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
 - a "Statement – Refuse Aboriginal Counselling" dated _____ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Aboriginal customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.
- (where the child is Torres Strait Islander)
 - a "Statement of Torres Strait Islander Counselling" dated _____ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
 - A "Statement – Refuse Torres Strait Islander Counselling" dated _____ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Torres Strait Islander customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.

Signature of Witness: _____

Dated this _____ day of _____ , _____ year
number month

WHO CAN WITNESS AN ADOPTION CONSENT

The following persons are prescribed in Clause 81 of the Adoption Regulation 2015 (NSW) to witness a consent to adoption:

- (a) if the instrument is signed in New South Wales:
- (i) the Secretary
 - Delegates of the Secretary include Family and Community Services Caseworker, Casework Specialist, Manager Casework or Manager Client Services.
 - NB:** Clerical/Administrative staff of Family and Community Services are not delegated to witness a consent.
 - (ii) an independent lawyer
 - Consent to adoption is not to be witnessed by the lawyer who acts for the applicant(s) for an adoption order in respect of the child who is the subject of the consent, or by any partner or employee of the lawyer.
 - (iii) a principal officer of an accredited adoption service provider.
 - (iv) a registered counsellor (under Clause 81 Adoption Regulation 2015) (not being the counsellor of any person signing the instrument or a person who is not independent of such a counsellor)

Consent to adoption is not to be witnessed by an Officer of the NSW Department of Family & Community Services or an employee of an accredited adoption service provider or designated agency who is the caseworker for the applicant(s) for a person adopting the child .

- (b) if the instrument is signed in another State or in a Territory: a person authorised by the law of that State or Territory is to witness a consent to the adoption of a child.
- (c) if the instrument is signed outside of Australia:
- (i) an Australian Consular officer as defined in section 26 of the Oaths Act 1900
 - (ii) a judge of a court or magistrate of that place
 - (iii) a person authorised by the law of that place to attest to a consent to the adoption of a child.

OFFENCES

It is an offence under Section 177 of the Adoption Act 2000 for any person to give or receive payment or reward in relation to the giving or signing of consent to adoption.

It is an offence under Section 184 of the Adoption Act 2000 to use any force or threat to influence a person or child to sign or not to sign an instrument of consent.

It is an offence under Section 185 of the Adoption Act 2000 for a person to witness a consent without being satisfied that the person signing the consent is a parent or guardian of the child, that the person is signing free from any threat, inducement or influence, that the person understands the effect of the consent and that the consent bears the date on which it is signed by the person giving the consent.

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GENERAL CONSENT TO ADOPTION OF A CHILD

(Parent giving consent)

ADOPTION ACT 2000 (NSW) Section 53(1)(a); 53(2) & 61
ADOPTION REGULATION 2015 (NSW) Clause 80(1)

I, _____
first _____ middle name/s _____ last _____
(full legal name of person)

of _____
(full address - number, street, suburb, state)
being the _____
(mother / father)

of _____
first _____ middle name/s _____ last _____
(full legal name of child)

born on the _____ day of _____ , _____
number _____ month _____ year _____

at _____ in the State of _____

give consent to the adoption of the above named child by any person or persons approved and selected to adopt the child in accordance with the law of New South Wales.

In giving consent to the adoption:

- I received a copy of the instrument of consent and the mandatory written information on _____ being at least 14 days before this day.
- I received counselling pursuant to section 63(1) of the Adoption Act 2000 on _____ being not earlier than 5 days after the birth of the child and not more than 30 days and no less than 72 hours before this day.
- I have been informed and understand that on the making of the adoption order my legal rights as a parent to the child will cease and parental rights and responsibilities will be transferred to the adoptive parent(s), and that for all legal purposes the child will be considered to be the child of the adoptive parent(s).
- I understand that I have the right to revoke (withdraw) my consent for adoption before 5pm on _____ which is 30 days beginning on the day on which I signed consent (Day 1 being the day after signing) by giving notice in writing to the Registrar of the Equity Division, Supreme Court, Queens Square, Sydney, NSW.
- I have been informed and understand that the child will come under the parental responsibility of the Secretary of the NSW Department of Family & Community Services when all the necessary consents to adoption have been given or dispensed with by the Court. If the child is currently under the parental responsibility of the Minister of the NSW Department of Family & Community Services, he/she will continue to remain so until further orders are made.
- I understand that if the Court is not satisfied that the best interests of the child will be promoted by adoption the Court has the power to make alternate orders in relation to the parental responsibility of the child, for example a parenting order under the Family Law Act or an order declaring the child to be under the parental responsibility of the Minister.
- I have been informed of my rights under the Adoption Act 2000.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

Strike out and initial paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent:

- I am under 18 years of age. I have received independent legal advice concerning the adoption before signing this instrument of consent.
- I am under 18 years of age. I have met with a counsellor or other appropriate expert regarding my capacity to understand the effort of this consent.
- The child is Aboriginal. In accordance with section 64 of the Adoption Act 2000,
I have been given adoption counselling prior to signing the instrument of consent; **OR**
I have been offered adoption counselling but refused it. I have been provided with written information on Aboriginal customs and culture on _____
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- The child is Torres Strait Islander. In accordance with section 65 of the Adoption Act 2000,
I have been given adoption counselling prior to signing the instrument of consent; **OR**
I have been offered adoption counselling but refused it. I have been provided with written information on Torres Strait Islander customs and culture on _____
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- I hereby request and authorise:
 - the Secretary of the NSW Department of Family & Community Services; OR
 - the Principal Officer of _____
(Name of Accredited Adoption Service Provider)

to make arrangements for the adoption of the above named child by persons approved as fit and proper to adopt a child and selected as suitable to adopt the child, and specified above.

Signature of person giving consent: _____

Dated this _____ day of _____, _____ year
number month

Signature of Witness: _____

Qualification of Witness: _____

(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81 of Adoption Regulation 2015.

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

STATEMENT OF PERSON QUALIFIED TO WITNESS CONSENT AT TIME CONSENT IS SIGNED (IMMEDIATELY AFTER CONSENT IS SIGNED)

ADOPTION ACT 2000 (NSW) Section 62(1)
ADOPTION REGULATION 2015 (NSW) Clause 81

On the _____ day of _____, _____ I witnessed

number

month

year

first

middle name/s

last

(full legal name of person giving consent)

sign the instrument of consent to the adoption of:

first

middle name/s

last

(full legal name of child)

I confirm that the instrument of consent bears the date on which it was signed by the person giving consent.

Signature of witness: _____

Dated this _____ day of _____, _____

number

month

year

SAMPLE ONLY – DO NOT FILL OUT OR SIGN

REVOCATION OF ADOPTION CONSENT – PARENT / GUARDIAN

ADOPTION ACT 2000 (NSW) Section 73 (2)

You can revoke (withdraw) your consent to adoption at any time up to 30 days from the date you gave consent, with counting for the 30 days beginning on the day after you signed the instrument of consent (That is, day one is the day after signing). **You cannot revoke your consent after this period.**

You can fill in the notice below and post it or deliver it personally to the Court. The revocation form or a letter **must** arrive at the Supreme Court before the end of the 30 day revocation period. Send your letter or this form to:

Attention: Adoption Clerk
Registrar of the Equity Division
Supreme Court of NSW
Queen's Square
184 Phillip Street, (GPO Box 3)
SYDNEY NSW 2000

#

If you have any questions about how to revoke your consent contact your caseworker or **ring Adoption Services, Family & Community Services on (02) 9716 3003 and ask to speak to a caseworker.**

REVOCATION NOTICE

I, _____ first _____ middle name/s _____ last _____
(full legal name of person giving consent)

of _____
(full address – number, street, suburb, state)

being the _____
(mother, father or guardian)

of _____ first _____ middle name/s _____ last _____
(full name of child)

born on the _____ number _____ day of _____ month _____, _____ year _____
at _____ in the state of _____
suburb/city _____

on _____ gave consent to the adoption of this child.
insert date

I hereby withdraw my consent to my child's adoption

Signature: _____
(signature of person revoking consent)

Dated the: _____ number _____ day of _____ month _____, _____ year _____



We acknowledge Aboriginal and Torres Strait Islander people as the First Nations Peoples of Australia and pay our respects to Elders past, present and future. We acknowledge the ongoing connection Aboriginal and Torres Strait Islander people have to this land and recognise Aboriginal and Torres Strait Islander people as the original custodians of this land.