




Australia's National Institute for Aboriginal
and Torres Strait Islander Health Research

Review of the National Agreement on Closing the Gap

Response to the draft report

Submission to the Productivity Commission

The Lowitja Institute, October 2023



Review of the National Agreement on Closing the Gap: response to the Draft Report
Productivity Commission

Dear Commissioners,

**Re: Productivity Commission Review of the National Agreement on Closing the Gap:
response to the draft report**

The Lowitja Institute is Australia's national institute for Aboriginal and Torres Strait Islander health research, named in honour of our Patron, Dr Lowitja O'Donoghue AC CBE DSG.

We welcome the opportunity to provide a submission to the Review of the National Agreement on Closing the Gap: draft report. As the national institute for Aboriginal and Torres Strait Islander health research and a community-controlled organisation, Lowitja Institute has consistently advocated for the Government to invest fully in its commitments under the National Agreement on Closing the Gap and embed the four Priority Reforms. The National Agreement aligns with the Lowitja Institute's priorities and long-standing vision for a health system that supports the health and wellbeing of Aboriginal and Torres Strait Islander peoples.

In addressing some of the Information Request and draft recommendations outlined in the review, we present a particular focus on the themes of partnership and transition of services, accountability mechanisms, data sovereignty and governance, cultural safety and truth telling,

Please find our submission attached. We would welcome the opportunity to further discuss any of the issues contained therein.

Warm regards

Rosemary Smith
Executive Manager, Policy and Consulting, Lowitja Institute

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About the Lowitja Institute

The Lowitja Institute is Australia's national institute for Aboriginal and Torres Strait Islander health research, named in honour of our Patron, Dr Lowitja O'Donoghue AC CBE DSG. The Lowitja Institute is an Aboriginal and Torres Strait Islander community-controlled organisation working for the health and wellbeing of Australia's First Peoples through high-impact quality research, knowledge translation, and by supporting Aboriginal and Torres Strait Islander health researchers.


Established in 2010, the Lowitja Institute operates on key principles of Aboriginal and Torres Strait Islander control of the research agenda, a broader understanding of health that incorporates wellbeing, and the need for the work to have a clear and positive impact. The Lowitja Institute invests in knowledge creation and translation by enhancing the capability of the Aboriginal and Torres Strait Islander health research workforce.

At the Lowitja Institute our research is built on priorities identified by Aboriginal and Torres Strait Islander peoples. We aim to produce high-impact research, tools and resources that will have positive health outcomes for Aboriginal and Torres Strait Islander peoples. To guide this, we work by five key principles that underpin our approach to research. These principles are:

1. **Beneficence** – to act for the benefit of Aboriginal and Torres Strait Islander people in the conduct of our research,
2. **Leadership** by Aboriginal and Torres Strait Islander people,
3. **Engagement of research end users** (Aboriginal and Torres Strait Islander organisations and communities, policymakers, other potential research users),
4. **Development of the Aboriginal and Torres Strait Islander research workforce**, and
5. **Measurement of impact** in improving Aboriginal and Torres Strait Islander people's health.

General preamble

The Lowitja Institute has a longstanding commitment to the National Agreement on Closing the Gap (the National Agreement), as members of the Coalition of Peaks and Partnership Working Group, the National Health Leadership Forum, and the Close the Gap Campaign Steering Committee, including authoring the *Close the*



Gap Campaign Report in three of the past four years. The National Agreement and its four Priority Reforms¹ align with the Lowitja Institute's long-standing advocacy and vision for health systems that support and empower Aboriginal and Torres Strait Islander peoples.

As the national institute for Aboriginal and Torres Strait Islander health research institute, and an Aboriginal community-controlled organisation, Aboriginal and Torres Strait Islander decision-making is central to the work the Lowitja Institute undertakes. We engage in policy and advocacy work that contributes to a range of key policy debates related to Aboriginal and Torres Strait Islander health and wellbeing. This work is underpinned by our 2022-2025 Policy Priorities², priorities that have been determined alongside Aboriginal and Torres Strait Islander members, organisations, researchers, and communities, and reflect not only community priorities and needs, but also emerging government policy contexts and topics on which the Aboriginal and Torres Strait Islander health sector is advocating.

Based on this experience, we offer the following general comments and responses to the following information requests and draft recommendations posed in the Productivity Commissions Review of the National Agreement on Closing the Gap Draft Report:

- Information Request 2: Shifting service delivery to Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs)
- Information Request 3: Transformation of government organisations
- Information Request 6: Characteristics of the organisation to lead data development
- Information Request 9: Independent mechanism in the broader landscape
- Information Request 11: Sector-specific accountability mechanisms
- Draft Recommendation 1: Appointing an organisation to lead data development under the Agreement

¹ Australian Government, 2020, *National Agreement on Closing the Gap – Priority Reforms*, <https://www.closingthegap.gov.au/national-agreement/priority-reforms>

² Lowitja Institute, 2023, *Policy Priorities 2022-2025*, Lowitja Institute, Melbourne

Transitioning services to Aboriginal and Torres Strait Islander community-controlled organisations


Aboriginal and Torres Strait Islander community-controlled health services (ACCHSs) provide communities with holistic, comprehensive, and culturally safe and appropriate healthcare³. These services support the social, emotional, physical, and cultural wellbeing of Aboriginal and Torres Strait Islander people and communities⁴. The transfer of service delivery from mainstream organisations to Aboriginal and Torres Strait Islander community-controlled organisations (ACCOs) is set out in Priority Reform 2 and discussed in Information Request 2. This represents an important and positive shift in ensuring best practice service delivery for Aboriginal and Torres Strait Islander peoples – thereby establishing strong foundations for improved health and wellbeing outcomes and progress against the socio-economic targets.

It is important to note, however, that ACCOs must be supported in this transition in order to be set up for success. The noted 'risks to the sustainability of ACCOs' – from the simplistic 'lifting and shifting' of mainstream services to ACCOs – arise when ACCOs are not provided with the appropriate investment, time, and capability-building to support this transfer of services. As part of their longer-term planning for implementation of the National Agreement, governments should be engaging with both service-delivery ACCOs and sector-specific peak bodies in their jurisdictions to understand what supports ACCOs require to take on new programs, new services and/or expanded client bases in the future. This relationship-focused approach is very different to the 'arm's length' approaches that governments frequently use to procure services from non-government organisations.

Relatedly, it is important that policy and practice frameworks are co-designed with ACCOs from the very beginning of the process. Transfer of services to ACCOs *only* at the point of service delivery, having not been involved in priority-setting or design, can leave ACCOs with the responsibility over poorly designed services that do not meet community needs. Linking in with Priority Reform 1, this indicates that the establishment of formal partnerships and shared decision-making structures –

³ Lowitja Institute, 2022, *Close the Gap Report 2022: Transforming Power: Voices for Generational Change*, prepared by the Lowitja Institute for The Close the Gap Campaign Steering Committee

⁴ NACCHO, n/d, 'Aboriginal Community Controlled Health Organisations (ACCHOs)', NACCHO, accessed 23 October 2023, <https://www.naccho.org.au/acchos/>




involving a transfer of some substantive decision-making power from governments to the ACCO sector – must also take place at the priority-setting and design stages of policy and program design, instead of occurring only at the procurement and service delivery stages.

An example of good practice in this arena is the *Targeted Translation Research Accelerator Needs Assessment and Prioritisation Project*⁵ – a collaborative project between the Lowitja Institute and MTPConnect. The Targeted Translation Research Accelerator (TTRA) program is an integrated research funding program that aims to improve the prevention, management and treatment of diabetes and cardiovascular disease (D&CVD) and their related complications in Australia. This \$47 million program is funded through the Preventative Public Health Research initiative of the Medical Research Future Fund (MRFF). The Lowitja Institute was engaged to facilitate a needs assessment process for Round 3 of the TTRA. This involved ascertaining Indigenous-specific priority areas for research into D&CVD and developing a Prioritisation Framework to guide this work in identifying, assessing, and prioritising related areas of unmet health and medical needs for Aboriginal and Torres Strait Islander people living with D&CVD. This project is a strong example of formal partnership from the beginning of the research process.

It is also important for governments to adhere to their commitments under Priority Reforms 1 and 2 when procuring policy advice, analysis and research from external organisations. Unfortunately, the role of Aboriginal and Torres Strait Islander community-controlled peak organisations in policy work is often undervalued. Several major new initiatives announced by governments as forming part of their National Agreement implementation work have entailed those governments procuring initial policy design, research and community consultation from non-Indigenous organisations and/or for-profit firms.

Where this has been driven by competitive tendering processes, closed procurement panels, and/or government probity requirements, it reflects a poor understanding of the Strong Sector Elements under Priority Reform 2, a weak commitment to Priority Reform 3, and an inclination to only adhere to the principles of the National Agreement where they do not conflict with 'business as usual'. It also shows a failure to value the unique knowledge and cultural/community legitimacy held by ACCOs, and treats their expertise as something that can just as easily be obtained from any other organisation. This is demonstrably not the case, with the Lowitja Institute's work offering a clear example – by investing in Aboriginal and

⁵ Lowitja Institute & MTPConnect, 2023, *Targeted Translation Research Accelerator Needs Assessment and Prioritisation Project*, Discussion Paper, Lowitja Institute, Melbourne



Torres Strait Islander researchers and the research capabilities of ACCOs, and by mobilising research for effective knowledge translation, we strengthen the entire sector's capacity *and* the evidence base available to governments all over the country.

At other times, governments have approached ACCOs first regarding the procurement of research, policy or community consultation work, but have set highly unrealistic timeframes on the deliverables expected in relation to ACCOs' size and resourcing. A long-term lack of adequate resourcing, combined with uncertainty about whether funding will continue from year to year, means that many ACCOs and peak bodies face significant barriers to growing their workforces. This limits their capacity to both apply for procurement opportunities and to deliver the expected outputs in the timeframes demanded by governments. In order to truly implement the Priority Reforms, ACCOs and peak bodies must be prioritised in this space *and* have realistic timelines to deliver the work.

Data development, sovereignty, and governance

The unreliability of data on Aboriginal and Torres Strait Islander peoples, and lack of self-determination and decision-making power for Aboriginal and Torres Strait Islander peoples over this data, hinders progress towards the National Agreement's Priority Reforms and Targets (and towards positive health outcomes more broadly). Measuring progress against the Priority Reforms at a national scale requires significant data infrastructure and organisation. A task of this size demands comprehensive and consistent data collection processes that adhere to the principles of Indigenous Data Sovereignty (ID-SOV) and Indigenous Data Governance (ID-GOV).

However, there remain significant gaps in capability around data development, governance, and analysis. There is a need to develop the capability of Aboriginal and Torres Strait Islander communities and organisations to better use and interpret data, as well as governments' capability to adhere to the principles of ID-SOV and ID-GOV. Accordingly, the Lowitja Institute reiterates its recommendation that ID-SOV and ID-GOV to be explicitly embedded in the National Agreement, noting that Priority Reform 4 currently speaks more to government data being shared with Aboriginal and Torres Strait Islander organisations and communities (cl. 71 (a), (b))

and (c)) than to Aboriginal and Torres Strait Islander community ownership and governance of data assets.

This recommendation is supported by Strategic Direction 6 of the *National Aboriginal and Torres Strait Islander Health Workforce Strategic Framework and Implementation Plan*⁶ (National Workforce Plan) and Priority 12 of the *National Aboriginal and Torres Strait Islander Health Plan*⁷ (the Health Plan), two national frameworks that both acknowledge the principles of ID-SOV and ID-GOV.

Maiam nayri Wingara Indigenous Data Sovereignty Principles

The Maiam nayri Wingara Indigenous Data Sovereignty collective developed five key Indigenous Data Sovereignty principles in 2018⁸. These are:

1. Indigenous people should exercise control of the data ecosystem, including data creation, development, stewardship, analysis, dissemination and infrastructure
2. Data should be contextual and disaggregated
3. Data should be relevant and empower sustainable self-determination and effective self-governance
4. Data structures should be accountable to Indigenous peoples and First Nations
5. Data should be protective and respect our individual and collective interests.

Information Request 6 proposes the appointment of a single organisation to lead data development under the National Agreement. For this to succeed, such an organisation would need to have certain characteristics. Firstly, it is important that this organisation is an Aboriginal and Torres Strait Islander community-controlled (non-government) organisation to ensure that ID-SOV and ID-GOV principles are embedded. Secondly, the organisation must possess both the appropriate cultural and technical (including infrastructural) capabilities. ACCOs have the required cultural capability, but even the larger national peak bodies would require significant long-term investment to recruit or develop the specialist technical data

⁶ Australian Government, 2022, *National Aboriginal and Torres Strait Islander Health Workforce Strategic Framework and Implementation Plan 2021-2031*

⁷ Australian Government, 2021, *National Aboriginal and Torres Strait Islander Health Plan 2021-2031*

⁸ Maiam nayri Wingara Indigenous Data Sovereignty Collective, 2018, *Indigenous Data Sovereignty Summit Communique – 20 June 2018*, Canberra. Accessed 25 October 2023 at: <https://www.maiamnayriwingara.org/mnw-principles>

capability required, and to establish the infrastructure required to securely warehouse large data assets.

Lowitja Institute's January 2022 pre-budget submission proposed the development of a purpose-built Indigenous Wellbeing Index and called upon the Australian Government to fund this initiative. The vision of this Index is to provide a centralised data-driven platform that embeds ID-SOV and ID-GOV by design, enabling Aboriginal and Torres Strait Islander peoples to make evidence-based decisions about their lives and communities. This would increase self-determination through empowering communities to design sustainable, Indigenous-led models and solutions. The Lowitja Institute, as Australia's only national Aboriginal and Torres Strait Islander research institute, is well placed to help build the workforce and capability within communities to oversee the Indigenous Wellbeing Index.


Accountability mechanisms

There is an urgent need to establish independent accountability mechanisms to hold governments accountable to their commitments under the National Agreement, over and above the transformation required by Priority Reform 3.

While there are a number of accountability institutions at both the State/Territory and Commonwealth level that undertake oversight of governments, very few of these bodies or positions have a specific remit over Aboriginal and Torres Strait Islander-specific policy and programs. For example, in Victoria, specialist accountability agencies like the Victorian Ombudsman, the Office of the Auditor General and the Independent Broad-based Anti-Corruption Commission, are tasked with ensuring the overarching integrity of government systems and processes. Many of these accountability entities gain authority from legislation whilst being operationally independent. They have powers, including those to obtain and share information and data, begin inquiries, investigate complaints, and make statements on how to improve government performance. However, a key limitation is that none of these agencies have an exclusive focus on government performance as it relates to Aboriginal interests and priorities.⁹

At the Commonwealth level, accountability entities include the Australian Human Rights Commission (AHRC), the Commonwealth Ombudsman, and the Australian

⁹ Lowitja Institute & VACCHO, 2023, *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion*, Lowitja Institute



National Audit Office (ANAO). While these entities have legislative authority and independence from the Government of the day, there are limitations on the applicability of their functions to those sought by ACCOs who are signatories to the National Agreement.

The Aboriginal and Torres Strait Islander Social Justice Commissioner is one example. This is a legislated role within the Australian Human Rights Commission. The Commissioner is responsible for keeping Indigenous issues before the Commonwealth Government and the Australian community, and for promoting understanding and respect for the rights of Aboriginal and Torres Strait Islander peoples. The limitations of this role, however, are that the Commissioner does not engage on state-specific issues, cannot deliver the sustained and in-depth scrutiny and advocacy required at the state level, and the role lacks the ability compel government agencies to provide data and information. The Commissioner is unable to conduct hearings with government officials or require government responses to its findings and recommendations, which prevents accountability where it is most needed.

Similarly, the Commonwealth Ombudsman is an important body that is focused on strengthening accountability. It derives its authority from legislation and is operationally independent, allowing it to scrutinise Commonwealth Government decisions. Its statutory powers allow this body to seek information and make statements about government performance. Whilst the Commonwealth Ombudsman fulfills an important role in maintaining general accountability and transparency, its oversight is limited to public sector efficiency, effectiveness, consistency and compliance with legislation, and its decisions do not extend to decisions made by Ministers or Cabinet. Crucially, these generalist accountability entities are not led by Aboriginal and Torres Strait Islander peoples¹⁰.

In light of the limitations to the scope and functions of existing Commonwealth Government accountability mechanisms, the Lowitja Institute agrees that the role of the National Agreement's independent mechanism(s) should be expanded beyond Priority Reform 3. Below, we provide a case study of a proposal for such an independent mechanism in Victoria.

¹⁰ Lowitja Institute & VACCHO, 2023, *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion*, Lowitja Institute

Proposal for a Victorian Aboriginal Authority

Through 2022 and 2023, Lowitja Institute worked in partnership with the Victorian Aboriginal Community Controlled Health Organisation (VACCHO) to conduct a feasibility study for a new, Aboriginal-led, independent statutory accountability entity, aimed at increasing oversight of Victorian government programs that affect Aboriginal peoples. The *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion*¹¹ proposed an accountability model in Victoria, following a desktop review of the Victorian accountability ecosystem and a series of preliminary consultations with eleven key stakeholders. These stakeholders included senior representatives from both Aboriginal-led and Aboriginal community-controlled organisations, and Victorian and Commonwealth Government agencies, including the Productivity Commission.


The project revealed that there is a gap in the existing machinery of government and electoral systems for Aboriginal people to hold the Victorian Government to account for its commitments to Aboriginal people. As discussed above, there are a number of accountability institutions in this state, but these sector-specific accountability mechanisms are not currently working for Aboriginal Victorians – none of them have an exclusive focus on government performance as it relates to priorities, policies and programs that impact Aboriginal people.

The resulting lack of government accountability to the Victorian Aboriginal community is demonstrated by a lack of equity in funding distribution; a lack of recognition for the role of the Aboriginal community-controlled sector in the way that programs are funded, monitored, and evaluated; the short-term nature of funding; and the lack of cultural safety in mainstream organisations funded by government.

As such, the discussion paper proposed the establishment of a Victorian Aboriginal Authority – a new, Aboriginal-led, independent statutory accountability entity, to strengthen oversight of Victorian Government programs for Aboriginal people.¹² Important functions of this body would include monitoring and reporting publicly on the implementation of government commitments and policies in relation to Aboriginal peoples and making recommendations for improvements. The Authority would be established in legislation, appoint Commissioner(s), be operationally

¹¹ Lowitja Institute & VACCHO, 2023, *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion*, Lowitja Institute

¹² Lowitja Institute & VACCHO, 2023, *Victorian Aboriginal Authority: An Initial Feasibility Study for Discussion*, Lowitja Institute



independent, conduct inquiries, engage with the Aboriginal community-controlled sector and report annually to Parliament.

The model proposed in the Victorian Aboriginal Authority Feasibility Study could be considered as a response for the Victorian Government in its commitment under the National Agreement and other arrangements. Additionally, we believe that this model could be successfully applied in other states and territories, and at the Commonwealth level, in the development of an independent mechanism (cl. 67) to support, monitor and report on the transformation of mainstream agencies and institutions.

Cultural safety and truth-telling


Aboriginal and Torres Strait Islander peoples across the country are leading solutions, policies and programs that improve the health and wellbeing of our peoples. However, racism within health systems and health research settings continues to generate significant risks to our health. The Lowitja Institute has funded research that supports and led advocacy for a stronger focus on racism within Indigenous health research.¹³ This work complements all four of the National Agreement's Priority Reforms, but is particularly relevant to Priority Reform 3, which commits governments to transforming the way they work with Aboriginal and Torres Strait Islander peoples through identifying and eliminating racism and embedding meaningful cultural safety within service system¹⁴ – both of which are critical to supporting positive health outcomes for our peoples.

Embedding and practicing cultural safety is central to any good partnership, co-design, or engagement practice; it must be woven through the design and implementation of health policies, structures and programs that affect Aboriginal and Torres Strait Islander peoples. Embedding cultural safety at the whole-of-government level is an overarching change and is essential to ensuring that changes within government organisations are not isolated activities.

The Lowitja Institute has been a long-time advocate of embedding cultural safety within health research and health systems, and has called upon the Australian

¹³ Watego, C; Singh, D & Macoun, A; 2021, *Partnership for Justice in Health: Scoping Paper on Race, Racism and the Australian Health System*, Discussion Paper, The Lowitja Institute, Melbourne

¹⁴ Australian Government, 2020, *National Agreement on Closing the Gap – Priority Reform*, <https://www.closingthegap.gov.au/national-agreement/priority-reforms>



Government to enter into partnerships with Aboriginal and Torres Strait Islander stakeholders to guide the Government's investment into cultural safety training and related capability development.¹⁵ As the Productivity Commission's Draft Report noted, practicing cultural safety is not the same as undertaking periodic 'cultural awareness' sessions or celebrating days of significance to Aboriginal and Torres Strait Islander peoples – transforming government organisations and embedding meaningful cultural safety requires deep analysis, significant commitment and ongoing monitoring and evaluation.

The Lowitja Institute's *Cultural Safety Audit Tool for Organisations*¹⁶ is one of a suite of cultural safety products designed to embed anti-racism and self-reflection in research settings. The tool works to assess an organisation's current commitment to – and level of development – in embedding cultural safety, focusing on leadership, governance, engagement, environment, workforce, workforce development, policy, and performance management, all of which are essential in supporting a culturally safe environment. Use of tools and resources like this – initially by senior agency leadership, later expanding to include all staff who engage with Aboriginal and Torres Strait Islander people, organisations, or Aboriginal and Torres Strait Islander-specific policy areas – would be a strong first step in embedding meaningful cultural safety across the Australian, State and Territory public sectors.

A critical element of cultural safety – and in implementing Priority Reform 3 more broadly – is truth-telling. Discourse around the recent Aboriginal and Torres Strait Islander Voice referendum made it clear that a significant proportion of the Australian public has relatively poor awareness of some key ways in which Western legal, political and economic systems have oppressed Aboriginal and Torres Strait Islander peoples, both historically and more recently. This indicates that the importance of truth-telling in both bringing to light historical traumas and identifying the ways that they continue to manifest in contemporary policies, systems and institutions¹⁷ must be underestimated. It is intimately tied to the approach outlined under Priority Reform 3 because eliminating racism and embedding meaningful cultural safety require government agencies to analyse and reflect on the ways in which their existing power structures and dominant Western cultures create disempowering and unsafe environments for Aboriginal and Torres Strait Islander staff and service users. While this process is often uncomfortable, government agencies

¹⁵ Lowitja Institute, 2020, *Culture is Key: Towards cultural determinants-driven health policy – Final Report*, Lowitja Institute, Melbourne

¹⁶ Gollan, S & Stacey, K; 2021, *Cultural Safety Audit Tool for Organisations*, Lowitja Institute, Melbourne

¹⁷ Lowitja Institute, 2020, *Culture is Key: Towards cultural determinants-driven health policy – Final Report*, Lowitja Institute, Melbourne



cannot address racism or culturally unsafe practices if they do not first admit that they exist.

The 2020 and 2021 Close the Gap Campaign Reports, both authored by the Lowitja Institute, call on governments to “prioritise truth-telling and healing processes to strengthen the resilience of Aboriginal and Torres Strait Islander people... stop the ongoing impacts of racism and intergenerational trauma”¹⁸, and to “pursue truth telling as relevant to health system reform”¹⁹. The non-passage of the Aboriginal and Torres Strait Islander Voice referendum now appears to have created significant uncertainty around the Australian Government’s implementation of the Treaty and Truth elements called for in the Uluru Statement from the Heart, and Treaty processes in some States and Territories are also facing political setbacks. Accordingly, it will be essential for governments to undertake truth-telling in the context of their commitments under the National Agreement if genuine progress is to be made on Priority Reform 3.

¹⁸ Lowitja Institute, 2021, *Close the Gap: Leadership and Legacy Through Crises: Keeping our Mob Safe*, Close the Gap Campaign Report, p.8

¹⁹ Lowitja Institute, 2020, *Close the Gap: We Nurture our Culture for Our Future, and our Culture Nurtures Us*, Close the Gap Campaign Report, p.7