



23 August 2023

*spirit of
Change*

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Michael Brennan
Chair
Productivity Commission
Closing the Gap Review
4 National Circuit
BARTON ACT 2600

Via email: ctg.review@pc.gov.au

Dear Mr Brennan

Review of the National Agreement on Closing the Gap Draft Report

On behalf of the National Native Title Council (NNTC), I am pleased to put forward the following submission. The NNTC is the peak body for Australia's Native Title and other Traditional Owner organisations. The NNTC represents Native Title Representative Bodies and Service Providers as well as Prescribed Bodies Corporate (PBCs) recognised under the *Native Title Act* (NTA) and other equivalent Traditional Owner Corporations (TOC) established under parallel legislation such as the Victorian *Traditional Owner Settlement Act 2010*.

Our submission highlights the fundamental connection between the wellbeing of our people and the health and vitality of our culture and our country. Our submission also highlights the importance that the right to culture is a right held by our Nations collectively. The submission concludes by noting that the NNTC supports the Commission in progressing its work in holding jurisdictional governments accountable for implementing Priority Reform 3 so that all other reforms may progress.

Background

The National Agreement on Closing the Gap (the **Agreement**), signed in 2020, seeks to continue the work of the Council of Australian Governments' National Indigenous Reform Agreement, which commenced in 2008.

This Agreement arises from a commitment from all Australian governments and Aboriginal and Torres Strait Islander representatives to progress a fundamentally new way of developing and implementing policies and programs that impact on the lives of Aboriginal and Torres Strait Islander peoples. It fulfils the commitments made in the Agreement which commenced in 2020 and signalled a new way of working to close the gap.¹

This program of work set out in the Agreement arises from the appalling disparity on life expectancy, health outcomes and wellbeing of Aboriginal and Torres Strait Islander peoples in Australia.

Monitoring the implementation of the Agreement has been undertaken by the Australian Government Productivity Commission (the **Commission**) and, every three years, the Commission has to publish a comprehensive review. The review informs the ongoing implementation of the Agreement by highlighting areas that need improvement and emphasising where additional effort is required to close the gap.

The Commission's *Review of the National Agreement on Closing the Gap Draft Report* (the **Report**) was released in August 2023 for public response by 6 October 2023. Subsequent review will be undertaken by the Commission before a final report is provided to the Joint Council on Closing the Gap in December 2023.

An inequitable balance of Power

At the heart of Aboriginal and Torres Strait Islander health outcomes, the demonstrable failure in achieving the targets set out in the Agreement - is power imbalance. The Report speaks to this imbalance for which concerns were raised about the inability of Government to transfer meaningful decision making to Traditional Owners.

“Governments have not been delivering on their commitments to improve how the public sector designs and delivers policies and services that reflect the priorities and needs of Aboriginal and Torres Strait Islander people. They now need to establish stronger mechanisms so that they are held accountable for making changes from within. It is not acceptable for government employees to treat adhering to the principles of the Agreement as optional – these principles reflect essential capabilities and behaviours without which governments cannot hope to deliver on their Closing the Gap commitments.”²

¹ Joint Council on Closing the Gap, *National Agreement on Closing the Gap*, 2020

² Australian Government Productivity Commission, *Review of the National Agreement on Closing the Gap Draft Report*, July 2023

Across our work with Traditional Owner organisations, as well as in our communities and our homes, we witness and live the fundamental link between wellbeing, access to Country and practice of Culture for Aboriginal and Torres Strait Islander peoples.

What we now consider to be land rights, human rights and Indigenous rights, are the day-to-day responsibilities of Traditional Owners, supported through a statutory and regulatory system. When these regimes fail to be upheld or acknowledged, as is the case with Australia's commitment to the United Nations Declaration on the rights of Indigenous Peoples (**UNDRIP**)³ and much aspirational government policy, the result is a decrease in wellbeing.

Wellbeing is interconnected with Culture and Country

When we speak of wellbeing, we speak of wellness that is spiritual, emotional and physical; it includes practicing culture, copyright protections and water allocations but also decreased life expectancy.

The Australian Human Rights Commission understands the essential need to support all aspects of cultural life for Aboriginal and Torres Strait Islander peoples in order to achieve broader health related outcomes, as *"life expectancy, health and wellbeing outcomes for Aboriginal and Torres Strait Islander peoples are inextricably linked to interconnected socio-economic and cultural factors."*⁴

In 2018, research into Indigenous land management as primary health care highlighted that Indigenous land management is a source of wellbeing, through strengthened identity and empowerment.⁵ This research shows that more than access to Country and practice of Culture, the fundamental link for improved wellbeing is rights and decision-making responsibility for Country.

The health of Country is the health of Culture and the health of Community. Maintaining the health of Country, through Cultural practices in turn heals the community and everyone prospers.

Cultural rights are collectively held

Culture is a collectively held right and requires the engagement and wellbeing of the entire community to flourish. The intergenerational access to Culture provides stability and

³ United Nations, *Declaration on the Rights of Indigenous Peoples*, 2007

⁴ Australian Human Rights Commission, *Wiyi Yani U Thangani Women's Voices - Securing Our Rights Securing Our Future*, 2020

⁵ Schultz, R., Abbott, T. and Cairney, S., *Indigenous land management as primary health care: qualitative analysis from the Interplay research project in remote Australia*, 2018

strength to communities whilst ensuring that inherited culture continues to be transferred from Ancestors from over 65,000 years ago to younger generations. Looking to generational health outcome improvement, today's children must be engaged in cultural connectivity and be provided with real decision-making responsibilities for Country as adults.


In consideration of cultural practice and decision making on Country, it is essential that the collective nature of cultural rights is understood and respected. As a collective set of rights, they are held within the community and managed through self-determined governance structures and representative groups. In implementing UNDRIP article 18, that "*Indigenous peoples have the right to participate in decisions through representatives chosen by themselves in accordance with their own procedures*", it is imperative that those groups are spoken to.

Aboriginal and Torres Strait Islander peoples have in many cases formalised their self-determined representative structures in forming PBCs and other entities under jurisdictional legislations. When discussions of Country and speaking for Country are held, they must be with the entities that manage those rights on behalf of their communities.

Conclusion

We support the Commission in progressing its work in holding jurisdictional governments accountable for implementing Priority Reform 3 so that all other reforms may progress.

Yours sincerely,

 Jamie Lowe
Chief Executive Officer