National Close the Gap Campaign

Submission

Review of the National Agreement on Closing the Gap Draft report:
Opportunity to respond to draft report.

October 2023

About the National Close the Gap Campaign

The Close the Gap campaign (the Campaign) arose in response to Professor Tom Calma's *Social Justice Report* (2005) which challenged governments to bring about health equality within a generation.

The Campaign is led by a Steering Committee of 53 members. As the preeminent coalition of Australia's peak Indigenous health bodies, mainstream health and advocacy bodies and human rights organisations, we work together to promote and achieve equality in health and life expectancy for First Nations Peoples across Australia.

We are guided by our Aboriginal and Torres Strait Islander leadership including the National Health Leadership Forum (NHLF) and co-chairs, Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar (AHRC) and Karl Briscoe, CEO of the National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners (NAATSIHWP).

Through a human rights-based and consensus decision-making framework the Campaign provides strategic advice related to raising the health and life expectancy of Aboriginal and Torres Strait Islander people to that of the non-Indigenous population within a generation.

As an Aboriginal and Torres Strait Islander-led social justice campaign, we are an impartial membership group, separate and distinct from the Federal government's *Closing the Gap Strategy.* We are fully committed to remaining non-partisan and independent from government.

The Campaign is underpinned by the Declaration and the principles of the fundamental rights of self-determination, participation in decision-making, respect for and protection of culture, and equality and non-discrimination.

Introduction

The Campaign welcomes the opportunity to provide a submission to the Productivity Commission on the Review of the National Agreement on Closing the Gap – Draft Report.

The Campaign supports the Commission on its forward and honest assessment on the implementation and progress of the National Closing the Gap Strategy. Robust reporting and assessment from the Commission is necessary to genuinely make improvements across the strategy and in particular across the 4 Priority Reform Areas.

The Draft Report contains pertinent questions on how to improve the reporting process of the National Agreement and each Information Request is central to establishing an enabling framework for delivering the National Agreement.

While implementation of the 2020 National Partnership Agreement on Closing the Gap continues, the most recent data confirms that despite improvements across the health sector, health outcomes remain comparatively worse for Aboriginal and Torres Strait Islander peoples.

The Commonwealth Government's 2022 Closing the Gap report is the first since the National Agreement was established stating that:

> *Since the National Agreement came into effect, the Commonwealth has deliberately prioritised building the relationships and policy infrastructure to support its delivery. Over the past 2 years, the Commonwealth has focussed on establishing the foundation to develop and implement the Priority Reforms[1].*

The Campaign has previously highlighted that the development of the new Priority Reform Areas are central to Closing the Gap. They set the pre-conditions to achieve socio-economic targets and provide the potential to drive generational change for First Nations peoples across Australia. Progress against socio-economic outcomes are impeded due to a lack of co-ordination, limited ability to advance implementation plans across government and the inconsistent application and understanding of the 4 Priority Reform Areas. This is evident in the slow progress and in some cases decline across the target areas.

A fundamental principle of the Partnership Agreement is to create measurable improvements in the lives of Aboriginal and Torres Strait Islander peoples and communities; and systems reform is an essential component and a whole-of-government responsibility.

The draft report is extensive and shows a clear understanding of what issues need to be addressed in order to fully achieve outcomes across the Priority Reform Areas and the targets. Our submission focuses on those areas where we think the most important restructurings need to be made to accelerate reforms across government.

A number of our members have provided individual submissions based on their experiences in their jurisdictions or their sector and we acknowledge their efforts. This submission fully endorses the submissions of the National Health Leadership Forum, the Coalition of Peaks and our other members to this Inquiry.

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[1] Commonwealth Closing the Gap Annual Report 2022 (niaa.gov.au) p2

Information request 2

- **Shifting service delivery to Aboriginal community-controlled organisations (ACCOs)**

The Close the Gap Campaign supports shifting service delivery to ACCOs. Research demonstrates that where ACCO's provide program and service delivery in Aboriginal and Torres Strait Islander communities, they are effective and are often the preferred provider.

The Campaign supports the Commission's proposal to put obligations for governments into service delivery contracts, including requirements for governments to provide data to ACCOs to enable them to design and deliver services that best meet the priorities and needs of service users. This is consistent with Maiam Nayri Wingara Indigenous Data Sovereignty Principles, including the right to use relevant data which empowers sustainable self-determination and effective self-governance, and will allow ACCOs to design and deliver services that best meet the priorities and needs of their communities.[2]

Aboriginal and Torres Strait Islander communities are the experts on the issues and challenges facing their communities. Aboriginal community-controlled organisations (ACCOs) are best equipped to facilitate cultural connection, safety and support that utilises a strengths-based approach, and this is a crucial step to help achieve Closing the Gap targets. As such, the Campaign strongly supports the shifting of service delivery to ACCOs as part of a larger aspiration for Aboriginal and Torres Strait Islander communities to be self-determining.

We make this claim with two important notes: firstly, it is critical that ACCOs are provided with sufficient funding, resources and support to build capacity in order to operate well and improve outcomes. This should include capacity support for new infrastructure, larger workforces and staff training; it should also be inclusive of sustainable long-term funding that includes provisions for inflation[3] as well as funding for programs that are driven by community as opposed to pre-determined by Government.[4]

Secondly, it must be guaranteed that shifting service delivery to ACCOs will not disproportionately burden the Aboriginal community-controlled sector with the responsibility for closing the gap, nor increase the likelihood they are blamed for its failures. We urge the Commission to consider how shifting service delivery can be carried out without relieving mainstream services and governments of their inalienable responsibilities.

Principles and examples of good practice

Given very few comprehensive evaluations of successful transitions of government service delivery to community control have been undertaken in peer reviewed literature, it is difficult to comprehensively assess and recommend particular elements of best practice, noting also that each transition to community control is unique and must be based on the particular place, knowledges and needs of each ACCO and the communities they serve.

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[2] "Maiam Nayri Wingara Indigenous Data Sovereignty Principles", *Maiam nayri Wingara,* no date.

[3] Aboriginal Family Legal Service (AFLS), Submission 36. Closing the Gap Review of the National Agreement on Closing the Gap Draft Report, (23 August 2023): 5.

[4] Ibid: 4.

In general, the Campaign recommends the following foundational elements as necessary building blocks to ensure successful transitions to community control:

1. Long-term funding for ACCOs with the assurance that they will not have to compete with mainstream organisations for funding;
2. Commitment to the long-term nature of building organisational capacity;
3. Extending trust to Aboriginal-led service delivery and governance, including a commitment to reduce the number of stringent requirements involved in external accountability processes in favour of a shift toward First Nations-led understandings of internal accountability; and
4. Commitment from government to implement a phased and flexible 'nation to nation' approach that sees government in a stewardship role with the goal to ultimately surrender government oversight and control.

i. Best practice
Life Without Barriers - the need for non-competitive funding

As an example of best practice, we highlight the case of Life Without Barriers (LWB). As one of Australia's largest providers of out-of-home care delivering services to around 25,000 people per year across 400 communities, LWB partnered with the Secretariat of National Aboriginal and Islander Child Care (SNAICC) in 2021 in a historic commitment to transfer its out-of-home care services for First Nations children to Aboriginal and Torres Strait Islander community controlled services within 10 years.[5]

As noted by SNAICC CEO Catherine Liddle, a primary challenge facing ACCOs is competition for funding. There is no shortage of ACCOs with the capacity to provide service delivery, but funding has historically gone to larger organisations like Life Without Barriers.[6] As such, it is crucial that ACCOs are not competing with larger mainstream service delivery organisations for funding and that they have the opportunity to develop the infrastructure and processes needed to take the lead. The Aboriginal Family Legal Service (AFLS) outline similar concerns in their Submission, with the AFLS still required to competitively tender against mainstream organisations for short term service contracts in Western Australia, creating a lack of assurance and a funding uncertainty that undermines and disadvantages the Aboriginal community-controlled sector.[7]

ii. Best practice
Gurriny Yealamucka Health Service - the need for long term capacity building and extending government trust

A second example of best practice involves the shift in primary healthcare services (PHC) from the Queensland state government to Gurriny Yealamucka Health Service, an Aboriginal Community Controlled Health Service in Yarrabah, Queensland. Research on the transition reflects that Gurriny's journey of achieving community control of PHC in Yarrabah was a 30 year process, the core of which was building and demonstrating organisational capacity.[8]

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[5] "Historic commitment to transfer out-of-home care services to Aboriginal and Torres Strait Islander communities" Life Without Barriers, 14 September 2021.

[6] Sarah Smit, "Indigenous out of home care services transferred to community hands" *National Indigenous Times,* 23 September 2023.

[7] Aboriginal Family Legal Service, Submission 36, Closing the Gap review (2023): 5.

[8] Crystal Jongen et al. "Transitioning to Aboriginal community control of primary health care: the process and strategies of one community-controlled health organisation in Queensland". *BMC Family Practice. vol 21, 230* (2020).

The shift to community control was undertaken in two stages, with the first stage focused on establishing and developing a community-controlled health service and the second stage focused on preparing for the transition, which included strategies to ensure strong governance, developing workforce and financial planning, management and modelling.[9] The Gurriny case study demonstrates that capacity building is often a decades-long process and that Aboriginal-led service delivery will at times differ radically from Western notions of accountability and governance.

Whilst Gurriny gained a great deal from the organisational capacity development process, they identified a significant barrier to their capacity building process and transition of service delivery: frequently stringent requirements and the need to continuously demonstrate organisational and leadership capacity, stemming from an underlying lack of trust from key stakeholders in Government and Queensland Health.[10]

A crucial element to ensuring successful transfers of service delivery from mainstream organisations to ACCOs is extending Government trust. Aboriginal and Torres Strait Islander organisations know their communities best and must be trusted to implement culturally safe and relevant solutions without being continually asked to re-prove their capabilities and respond to frequent and stringent government demands. Systematic racism and mistrust from Government toward Aboriginal governance leads to significant delays and acts as a major barrier to transition.[11]

Gurriny's transition to community-controlled service delivery was ultimately successful, and their experience provides a framework for both governments and other ACCOs. Lessons learned from Gurriny suggest that Government stakeholders can support future transitions by providing clear information about expectations early on, committing to the long-term resourcing of ACCOs capacity strengthening processes, and having trust in Aboriginal governance.

Lifting & shifting mainstream services

There must be a shift in government approach away from 'lifting and shifting' mainstream services to a phased and flexible context-specific approach that sees government in a stewardship role. The ultimate goal of the transfer of service delivery to ACCOs should be to surrender government oversight and control and to ensure system changes are working in the interests of First Nations communities.[12]

Governments must fundamentally reimagine their role away from needing to have control over the quality, performance and cost effectiveness of ACCOs and toward holding the responsibility to work in partnership with ACCOs as a supportive resource and funder of their services. This requires an awareness that the primary responsibility of ACCOs is and should not be to answer to governments (i.e. external accountability) but to be responsive to the needs of their communities and to provide quality, culturally safe and accessible services (i.e. internal accountability).[13]
We urge the Commission to ensure their recommendations reflect the importance of internal accountability and mutual responsibility to many First Nations organisations.[14]

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[9] Crystal Jongen et al. "Transitioning to Aboriginal community control of primary health care: the process and strategies of one community-controlled health organisation in Queensland". *BMC Family Practice. vol 21, 230* (2020).

[10] Ibid: 5.

[11] Ibid: 10.

[12] Ibid: 6.

[13] Ibid: 9.

[14] Jumbunna Institute Indigenous Policy Hub. "*Accountability Frameworks between States and*

Examples of best practice support a nation-building approach that prioritises Aboriginal and Torres Strait Islander internal accountability over external accountability and allows ACCOs the ability to be funded by government while being internally accountable for policy and administrative mistakes, as a settler government would be, without intervention.[15] Aboriginal and Torres Strait Islander peoples must be granted the authority to determine and control the pace, shape, and manner of change and decision making at local, regional, state and national levels.[16] This approach is grounded in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) which allows that Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.[17]

Information requests 4

- ### Indigenous data sovereignty and Priority Reform 4

The Campaign supports the Commission recommending that Indigenous data sovereignty should be the explicit objective of Priority Reform 4.

As noted in our previous submission, effective collaboration with Aboriginal and Torres Strait Islander communities must support a more holistic concept of health that acknowledges the close connection between physical, mental, cultural, environmental, and spiritual health of Aboriginal and Torres Strait Islander peoples and communities.

To ensure respectful, culturally informed policy and practice that reflects community priorities, Aboriginal and Torres Strait Islander leadership and decision-making must be embedded into all aspects of data collection, analysis, use and interpretation.

The Commission should work to maximise community benefit from research and data by developing and expanding partnerships across existing Aboriginal and Torres Strait Islander organisations, networks and fora, including the National Health Leadership Forum, the University of Melbourne's Indigenous Data Network, the NHMRC National Network for Aboriginal and Torres Strait Islander Health Researchers, community controlled research organisations such as the Lowitja Institute, and the Aboriginal Community Controlled Health Organisations sector.

This requires understanding and ceding control. Mainstream funders and services need to recognise and embrace Aboriginal and Torres Strait Islander leadership, learn from Aboriginal and Torres Strait Islander peoples, and change their ways through dedicated and sustained action at all levels of systems, including in access to and sharing of Aboriginal and Torres Strait Islander data.

It is well-established that high quality health data is required to implement effective place-based health interventions. The collection and use of Aboriginal and Torres Strait Islander data should respect and operationalise the principles of Indigenous Data Sovereignty and ensure alignment with

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Indigenous peoples - a literature review" *University of Technology Sydney* (2020): 13.

[15] Martin and Mirraboopa 2003 Native Nations Institute and HPAIED 2006, Cornell and Kalt in Jorgensen 2007 as cited in Jumbunna Institute Indigenous Policy Hub. "*Accountability Frameworks between States and Indigenous peoples - a literature review*" *University of Technology Sydney* (2020): 16.

[16] Megan Davis, "Community Control and the Work of the National Aboriginal Community Controlled Health Organisation: Putting Meat on the Bones of the UNDRIP," Indigenous Law Bulletin 8, no. 7 (July/August 2013): 11-14

[17] Declaration on the Rights of Indigenous Peoples *United Nations* (UN) (2007): 8.

the principles outlined in the National Agreement on Closing The Gap, the Maiam nayri Wingara Indigenous Data Governance protocols and principles, and Mayi Kuwayu, the National Study of Aboriginal and Torres Strait Islander Wellbeing.

Aboriginal and Torres Strait Islander leadership is critical because trust, belonging and knowing are central to any positive change. Systems need to listen and respond to good practice based on Aboriginal and Torres Strait Islander ways of knowing, being and doing that have been shared and demonstrated over many decades under colonisation. This will result in transformation of both mainstream services and ACCO's that is guided by local data about what works in and for Aboriginal and Torres Strait Islander communities.

Aboriginal and Torres Strait Islander communities must retain ownership, access, and control over their data, with a focus on building local capacity and facilitating self-determination to empower and support communities to utilise data to effectively address community priorities and make informed decisions on programs and policies that address local needs.

Information request 8

- ### Quality of implementation plans and annual reports

The Campaign supports the Commission's assessment that governments need to improve the quality of their implementation plans and annual reports to ensure that these documents are driving improved outcomes for Aboriginal and Torres Strait Islander people.

The four Priority Reforms are the central pillars guiding the Closing the Gap Strategy. These reforms are a commitment by government to address the urgent gap in health and life outcomes between First Nations peoples and non-Indigenous Australians. The Productivity Commission's report frames these reforms as prerequisites for meaningful change for First Nations peoples.[18] The failure by governments to fulfil these prerequisites is a damning reflection on the genuineness behind their commitment. Governments are not being held accountable and this suggests urgent revision of the current implementation plans.

The Campaign presents several requirements for responsive, culturally appropriate, and effective implementation strategies to uphold the four Priority Reforms:

1. Human rights-based approach.
2. Strengths-based approach
3. Intersectional approach
4. Decolonising principles
5. Holistic systems lens
6. Social and cultural determinants of health
7. Accountability – Ways of Working model

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[18] Productivity Commission, 'Annual Report 2021-2022' (Annual Report, September 2022), <https://www.pc.gov.au/about/governance/annual-reports/2021-22/annual-report-2021-22.pdf>.

1) *Human rights-based approach*

Human rights-based approaches aim to translate human rights obligations into effective policies, practices, and practical realities. There is limited mention of human rights in Closing the Gap strategies and policies nationwide. This is despite many systemic issues faced by First Nations people often having significant human rights implications. A human rights-based approach emphasises *how* human rights are achieved. First Nations peoples' human rights are inherently linked with the ability to enjoy culturally safe and responsive systems, structures, and services. This is outlined in Priority Reform 3 as an area in need of large-scale transformation in government agencies and institutions.[19]

There is a clear absence of macro-level strategies for driving and delivering First Nations peoples' human rights in line with Priority Reform 3. A human-rights approach in accountability structures would support Priority Reform 3 and identify the 'blind spots' that previous implementation plans have failed to capture. Previous attempts to implement Priority Reform 3 have been small-scale and individualised change through cultural competency training and employment strategies. This has not led to the system-level change needed to better approach human rights issues for First Nations peoples in these settings – institutional racism, cultural safety, and unconscious bias. The most common description of a human rights-based approach is the PANEL framework.

Participation: everyone has the right to participate in decisions which affect their lives. Participation must be active, free, and meaningful, and give attention to issues of accessibility, including access to information in a form and a language which can be understood.

Accountability: accountability requires effective monitoring of compliance with human rights standards and achievement of human rights goals, as well as effective remedies for human rights breaches. For accountability to be effective there must be appropriate laws, policies, institutions, administrative procedures, and mechanisms of redress to secure human rights. This also requires the development and use of appropriate human rights indicators.

Non-discrimination and equality: a human rights-based approach means that all forms of discrimination in the realisation of rights must be prohibited, prevented, and eliminated. It also means that priority should be given to people in the most marginalised or vulnerable situations who face the biggest barriers to realising their rights.

Empowerment: everyone is entitled to claim and exercise their rights and freedoms. Individuals and communities need to be able to understand their rights, and to participate fully in the development of policy and practices which affect their lives; and

Legality: a human rights-based approach requires that the law recognises human rights and freedoms as legally enforceable entitlements, and the law itself is consistent with human rights principles.

Australia is party to the seven key international human rights treaties, having signed and ratified:

- The *International Covenant on Civil and Political Rights* (ICCPR),
- The *International Covenant on Economic, Social and Cultural Rights* (ICESCR),
- The *Convention on the Rights of the Child* (CRC),
- The *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment* (CAT),

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[19] Closing the Gap, *Priority Reform Three – Transforming Government Organisations,* (Webpage), <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/6-priority-reform-areas/three>.

- The *Convention on the Elimination of All Forms of Racial Discrimination* (CERD),
- The *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW)
- The *Convention on the Rights of Persons with Disabilities* (CRPD).[20]

The ratification of these seven treaties find Australia legally bound to their provisions as part of its international human rights obligations. Australia also supported the United Nations Declaration on the Rights of Indigenous Peoples in 2009.[21] The Declaration elaborates on the human rights obligations in the seven ratified treaties within the context of Indigenous Peoples' experiences globally. It is the most comprehensive international instrument on the rights of Indigenous Peoples and establishes a universal framework of minimum standards and fundamental freedoms. There are four sets of foundational principles that the Declaration elaborates on:

- Self-determination.
- Participation in decision-making.
- Respect for and protection of culture.
- Equality and non-discrimination.[22]

Australia has identified the Closing the Gap Strategy as its key policy platform to give effect to the Declaration. However, these four principles are not adequately enforced in Closing the Gap's current implementation plans. The four Priority Reform Areas reflect the four principles in the UNDRIP and should therefore be core to Closing the Gap's accountability measures. A human rights approach to reporting will ensure government is better meeting human rights obligations at an international level, not just bound by domestic relevance.

2) *A strengths-based approach*

There is an urgent need for governments to adopt a strengths-based approach in their implementation plans. These should centre First Nations peoples' lived experiences in policies and programs aiming to realise their human rights. A strengths-based approach is a shift away from the dominant deficit lens. A deficit-based approach removes colonisation and its impacts from conversations about First Nations peoples. This deficit approach is disempowering and incongruent with human rights principles.

A strengths-based approach is core to Priority Reform 1, which describes governments' commitment to strengthening and building structures that empower First Nations peoples to share decision-making authority with governments. This approach also provides a critical lens to better facilitate discussion and practice that considers the deep structural and systemic issues faced by First Nations people.

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[20] Australian Human Rights Commission, *What are human rights?,* (Webpage, 2023), <https://humanrights.gov.au/about/what-are-human-rights#:~:text=The%20Australian%20Government%20has%20agreed,All%20Forms%20of%20Racial%20Discrimination>.

[21] Australian Human Rights Commission, 'Implementing UNDRIP', (Webpage 2021), <https://humanrights.gov.au/sites/default/files/2020-10/implementing_undrip_-_australias_third_upr_2021.pdf>.

[22] Australian Human Rights Commission, 'UN Declaration on the Rights of Indigenous Peoples', (Webpage, 2023), <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/un-declaration-rights>.

Priority Reform 1 should be supported in implementation plans through adopting a critical lens to inauthentic shared decision-making practices. Consultation with First Nations peoples on pre-determined solutions is not collaboration, nor is it the equivalent of a strengths-based approach. Priority Reform 1 must be upheld using a strengths-based approach to policy partnerships and place-based partnerships that build trust through co-designed solutions. Implementation plans should enshrine this strengths-based approach to implement Priority Reform 1 and support all Priority Reforms.

A model for embedding a strengths-based and human rights centred approach can be found in the Australian Human Rights Commission's *Wiyi Yani U Thangani* Report (2020).[23] It was created in the pursuit of including First Nations women and girls' voices in policies, programs, and conversations which have historically excluded them and to instigate systemic change. A strengths-based approach has been evident throughout the project phases and embraced by over 2000 First Nations women and girls. It recognises and celebrates the interconnectedness of lived experiences, understanding the valuable expertise that stems from these experiences. Closing the Gap implementation plans should adopt this lens to reframe the purpose behind evaluations and measurements of Closing the Gap's delivery. Incorporating lived experience as a strengths-based approach translates to a deep listening capacity in evaluation processes. Privileging lived experience can result in powerful measurements of program delivery in the lives of people it aims to represent. Wiyi Yani U Thangani is an example of an initiative which supports Priority Reform 1 and 3 through a human rights and strengths-based approach.

Drawing on the lived experiences of First Nations people within the pursuits of Closing the Gap would recognise both individual and collective strengths of First Nations peoples which the UNDRIP explicitly promotes; and it would support the four Priority Reforms, particularly Reforms 1 and 3.

3) *Intersectionality*

First Nations peoples and organisations face challenges accessing government-held data which prevents local, state, territory, or federal governments from being held accountable when their data is not meeting the requirements of Priority Reform 4. Importantly, Priority Reform 4 recognises the need for intersectional design to extend into the realm of data[24] and requires governments to implement large-scale changes to data systems and practices to better align with First Nations peoples wants and needs.

An intersectional lens extends to the systems and structures with which First Nations peoples interact. Intersectional approaches are necessary when examining the effects of policies and programs on the population at large. However, it is too often neglected when examining smaller populations. The Closing the Gap implementation plans often identify outcomes in isolation of each other. This minimises the inherent complexity in pursuing structural change for First Nations peoples. Governments have not made coordinated efforts to produce a reporting framework that is intersectional.

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[23] Australian Human Rights Commission, 'Wiyi Yani U Thangani Report (2020)', (Publication 2020), available from: <https://humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/publications/wiyi-yani-u-thangani>.

[24] Closing the Gap, *Priority Reform Four – Shared access to Data and Information at a regional level*, (Webpage), <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/6-priority-reform-areas/three>.

For example, whilst the New South Wales Implementation Plan[25] contains an entire section on the intersections of First Nations and LGTBQIA+ identities in Closing the Gap, the Western Australian Implementation Plan contains only a sentence.[26] This has resulted in data collections and implementation measures that do not represent the experiences of First Nations peoples or hold meaning for them. Organisations have widely misunderstood the function and practice of intersectional approaches, and this has the potential to further aggravate the harm done by siloed initiatives. An intersectional approach is critical to producing truly representative policies and programs, and it is essential that governments ensure their Closing the Gap reporting implements a genuinely intersectional approach that is properly designed. This would support Closing the Gap's fundamental objective to hold governments accountable to the social, cultural, political, and economic drivers of the gap as opposed to focusing on symptoms. Furthermore, this approach should be consistent across jurisdictions to ensure that implementation plans not only account for the systemic burdens which have perpetuated the occurrence of the Gap itself, but also enforce meaningful action across Australia.

Intersectionality is not the practice of simply categorising impact by characteristics and to frame it as such, detracts from intersectionality experiences rather than making them visible and represented. This creates a barrier to visible and representative data further exacerbating a lack of transparency. A clear example would be examining Closing the Gap by measuring its impact with First Nations women and girls and First Nations people with disabilities separately. This would not include the experiences of First Nations women and girls with disabilities, which is experienced at the intersection of racial, gender, and ability-based discrimination. Each siloed approach to intersectionality further maintains the notion of 'the exception'. Intersectional experiences are not the exception, but inherent. Forgetting this in attempts to incorporate intersectional approaches can be more harmful than policies without explicit goals to uphold intersectional principles.

Diversity is a strength to society and should thus be reflected in the very foundation of policy responses. Policymakers should embrace an intersectional approach that finds all First Nations peoples enjoying policies that recognise them holistically. Embracing an intersectional approach to implementation plans would play a significant role in the Closing the Gap's pursuit of sustainable and truly responsive change.

4) *Decolonising evaluation methods*

Priority Reform 4 demands a shared understanding of the purpose behind data collections. Collecting data in this context is done to ensure that First Nations experiences are listened to and represented in actions that hold governments to account. Australian national policy must respond to all First Nations people, especially within strategies specifically designed to support their human rights. An intersectional approach to measuring these policies would reflect diverse experiences by rethinking methods. Data collection for evaluating policies and programs should therefore reflect Priority 3 in addition to Priority 4 to recognise that evaluation as a research practice should be culturally safe and responsive.

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[25] New South Wales Government, '2022–2024 NSW Implementation Plan for Closing the Gap', (PDF, August 2022),<https://www.aboriginalaffairs.nsw.gov.au/media/website_pages/closingthegap/nsw-implementation-plan/2022-24-implementation-plan/NSW-Closing-the-Gap-Implementation-Plan-2022-2024-(4)-accessible-Updated-(1).pdf>.

[26] Government of Western Australia, 'Closing the Gap Jurisdictional Implementation Plan', (PDF, September 2021), <https://www.wa.gov.au/system/files/2021-09/Implementation%20Plan%20-%20CtG_1.pdf>.

Current quantitative data frameworks poorly incorporate an intersectional lens and thus produce data that does not truly represent the diverse experiences of populations. Disaggregating data collections for Closing the Gap evaluations would better consider the experiences of intersecting characteristics such as sex, gender, religion, environment, age, ability, and sexuality among others. This would give greater visibility to obscured threats to Closing the Gap's mission, such as First Nations women and girls' experiences of gendered disability violence which poses a unique and pronounced risk to this population's life and wellbeing.

Qualitative methods should be at the forefront of Closing the Gap implementation plans with the quantitative data acting as a support. Combining qualitative and quantitative data can provide more meaning and better translation of data. Evaluation methods should not be defined by a qualitative nature, nor a quantitative nature, but rather reflect how best to capture the depth, scope, and essence of a topic, respond to needs and generate change.

A gap perceived by the policymakers may not be a gap felt profoundly by the community. This is why intersectionality must work alongside a co-design and co-review lens to allow meaningful evaluation. Governments' commitment to Priority Reform 3 and Priority Reform 4 should be held accountable in implementation plans and annual reports which recognise the necessity of an intersectional approach that decolonises measurement mechanisms.

Rethinking evaluation of Closing the Gap implementation plans should include disaggregating quantitative data, embracing qualitative evaluation methods such as interview, and including co-design and co-review principles. These methods support initiatives to not simply endure changing social, political, and economic environments, but to embrace them.

5) *Holistic systems lens*

The landscape in which Closing the Gap's Priority Reforms are being measured is ever-changing. Thus, the implementation plans and annual reports assessing governments' commitment to the Strategy cannot be unchanging and static. These accountability measures must be reflective and responsive to the context in which Closing the Gap is being delivered. They must recognise the ways policies are experienced within environments in which people live, work, age, and are born.

The systems and structures that govern these environments are complex and demand that policies incorporate a holistic systems lens in their evaluation methods. In accordance with Priority Reform 1, First Nations peoples must be at the centre of decisions surrounding this evaluation as it is their experiences that are most affected by changing environments.

Dominant Western worldviews focus measurements of change on individual behaviour. This approach means that Closing the Gap implementation plans and annual reports have consistently perpetuated inequities in health and life outcomes of First Nations people in Australia by neglecting the role of systems and structures that impact a person's health. It has also led to a failure of governments to realise their own commitments by limiting the scope of evaluations. The poor implementation of Priority Reform 3 maintains this limited scope. Systems and structures that are not culturally safe and responsive perpetuate individualised and small-scale approaches to change. Priority Reform 3 cannot be achieved without a holistic systems lens enshrined in implementation plans and annual reports.

Policies cannot realise substantive change where they are siloed and singular in their focus. To be truly responsive to the health and life outcomes of First Nations people, Closing the Gap implementation plans and annual reports must adopt a holistic systems lens approach that is both multisectoral and grounded in First Nations knowledge. Implementation plans with a holistic systems lens would challenge punitive systems and structures which have been a source of deep disempowerment since colonisation. Punitive systems and structures disempower First Nations peoples and have produced harms that maintain health inequities, including high rates of incarceration. This inhibits equitable, just and enabling futures which is a barrier to health and wellbeing.

6) *Social Determinants of Health*

The objective of the National Agreement is to enable partnership and collaboration between First Nations peoples to overcome the gap in life outcomes they face compared to non-Indigenous people.[27] The social determinants of health are inherently connected to this objective.

The social determinants of health describe inequities in resources, opportunities, power which inform disparities in living conditions, work opportunities, health, and education.[28] Social determinants of health are also commonly referred to as the 'causes of causes' as these determinants extend beyond individual behaviour to reflect the influence of social, cultural, political, economic, and environmental drivers on an individual's circumstances. Social determinants expand understandings of health beyond singular lifestyle and medical choices, to communicate the harms that arise from the impact of broader system structures on the health of an individual. Incorporating the concept of social determinants of health within the Closing the Gap implementation plans and annual reports thereby utilises a holistic system lens approach.

The Western Australian Closing the Gap Jurisdictional Implementation Plan 2021 made only one reference to colonisation and to the Stolen Generations but made twenty-eight references to alcohol.[29] This positions individual behaviour as more significant to the gap in health outcomes than the enduring consequences of colonisation. It places alcohol consumption as a determinant of health as opposed to a symptom of the history, systems, and structures that have disempowered First Nations peoples. It does not recognise the intergenerational consequences of dispossession, war, the Stolen Generations, and dehumanising policies that have directly produced 'unhealthy' individual behaviours. The absence of a holistic systems lens in implementation plans and annual reports neglects the cultural determinants of health that produce and maintain this gap. The enduring gap between First Nations and non-Indigenous Australians is grounded in colonialism. Closing the Gap government reporting must be reframed to accurately reflect and address disparities in health and life outcomes for Australia's First Peoples.

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[27] Closing the Gap, 'National Agreement', *Objectives and Outcomes,* (Webpage), <https://www.closingthegap.gov.au/national-agreement/national-agreement-closing-the-gap/3-objective-and-outcomes>.

[28] Australian Human Rights Commission, 'Social determinants and the health of Indigenous peoples in Australia – a human rights based approach', *Aboriginal and Torres Strait Islander Social Justice,* (Web Page, 2007), <https://humanrights.gov.au/about/news/speeches/social-determinants-and-health-indigenous-peoples-australia-human-rights-based>.

[29] Government of Western Australia, 'Closing the Gap Jurisdictional Implementation Plan', (PDF, September 2021), <https://www.wa.gov.au/system/files/2021-09/Implementation%20Plan%20-%20CtG_1.pdf>.

Current implementation plans are inherently disempowering because of the lack of change they bring and their poor enforcement of Closing the Gap's Priority Reforms. Empowerment is at the heart of minimising health inequities. This is why the Priority Reforms describe tangible areas for First Nations peoples' empowerment. Priority Reform 1 aims to empower First Nations peoples through shared decision-making. Priority Reform 2 aims to empower through community-controlled organisations and place-based initiatives. Priority Reform 3 aims to empower through culturally safe and responsive systems and structures. Priority Reform 4 aims to empower through decolonising data. Closing the Gap Priority Reforms cannot be achieved without an empowering approach to implementation plans and annual reports. The Closing the Gap objective of addressing the gap in health outcomes for First Nations peoples is inseparable from gaps in empowerment.

7) *Accountability - Ways of Working*

Closing the Gap implementation plans and annual reports need to drive improved outcomes for First Nations peoples. The evaluation stage of policy life cycles is a critical point at which policymakers can listen to the impacts and meaningfully engage with the real experiences of well-intended policies. Genuinely designed implementation plans will necessitate action and intervention from regular evaluation and measurement. Government has not yet achieved this status of implementation plan and reporting for Closing the Gap.

To further strengthen accountability measures the Campaign highlights, the work of the Wiyi Yani Yu Thangani Project Team and their creation of the "Ways of Working" model. An accountability framework that provides a model of how Closing the Gap's implementation plans could meaningfully support an organisation's goals.

Wiyi Yani U Thangani has produced a 'Ways of Working' model throughout the project that assist to reframe thinking and actions.[30] The Ways of Working assist policymakers to adopt a First Nations worldview to the design and implementation of policies. This has become embedded into the Wiyi Yani U Thangani project and can be used by individuals and teams across any setting. The practice guide provides readers with key questions to ask themselves to ensure their approach is aligned with these principles. These ways of working encompass the six requirements the campaign recommends government adopt into their implementation plans for Closing the Gap. The Ways of Working model would support an approach to Closing the Gap's implementation plans and wider strategy that enables and enforces accountability, design and guidance, and advocacy and support. It would ensure the Closing the Gap is cohesively and uniformly implemented across jurisdictions with guidance from the six recommended areas. It could be returned to regularly as a key part of the implementation processes to ensure that Closing the Gap is implemented in a reflective and reflexive manner. The Ways of Working necessitates meaningful engagement as a core part of creating meaningful change that is sustainable, responsive, and empowering.

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[30] Australian Human Rights Commission, 'Wiyi Yani U Thangani (Women's Voices) - Implementation Framework (2022)', *Aboriginal and Torres Strait Islander Social Justice,* (Publication, 2021), pp. 16-17, <https://humanrights.gov.au/sites/default/files/document/publication/ahrc_wyut_framework_2021_2.pdf>.

The ways of working model can be adapted to Closing the Gap, as follows:

Principles		
Embedding cultural and respect for Identity: Women and girls learn and practice their culture, knowledge and languages, and their diverse identities are respected	Truth telling: Measures designed to enhance the enjoyment of human rights by First Nations peoples are of benefit to their entire communities	Understanding intersectional discrimination: The experiences of First Nations peoples are informed by a complex mix of race, gender, age, ability, and other attributes
Equity in leadership: All First Nations peoples are respected and equally represented in leadership	A place-based approach: Governments acknowledge the efficacy of place-based initiatives.	Inclusion and participation: All First Nations peoples are supported to participate in decision making that affects their lives.
A rights-based approach: All First Nations peoples learn and practice their culture, knowledge and languages, and their diverse identities are respected.	Accountability and transparency: Initiatives have strong accountability measures that reflect First Nations ways of knowing and being and are readily available and accessible.	Lifting women lifts the entire community: Measures designed to enhance the enjoyment of human rights by First Nations peoples are of benefit to their entire communities

Ways of working

1. Co-design and collaborate: First Nations peoples need to lead in designing solutions and initiatives and be a part of every stage of developing, implementing, and evaluating work. *Is co-design a part of your work from conception to actualisation of an idea, and have you ensured that co-design meets the standards of all First Nations peoples? Are you prepared and willing to let co-design change your thinking, projects and intended outcomes?*

2. Engage in Deep listening: It is important to be present, focused, respectful, and considered when meeting and in dialogue to absorb new knowledge and to help define intention and hopes of communities. *Are you thinking about your point of view and what to say next rather than listening? Have you spent time seeking to understand what has been communicated, without assuming and imposing your position? Have you come with a preformed fixed idea that you are unwilling to let go of?*

3. Take a Strength-based approach: First Nations peoples' lives hold remarkable knowledges, skills and expertise that can inform and create meaningful solutions. *Are you fixated on issues and symptoms and wanting to fix problems without listening or understanding the lives and work of women and their communities? Are you working with the strengths and assets identified?*

4. Commit to self-awareness and reflection: There are many unknowns at the beginning of a project, reflective learning helps work to be flexible, adaptive, and better able to meet needs and local priorities. *Does your work have ongoing evaluation, and can it be altered by new learnings? Are you open to feedback without feeling threatened or defensive? Can you let go of control and accept that you do not know everything?*

5. Step back and embrace new ideas: working in collaboration requires the rebalancing of power relationships and the acceptance that the Western worldview is not superior to all other knowledges. *When you engage are you happy to sit as an equal at the table? Do you invite and encourage others to put forward perspectives and thoughts? When you hear new ideas do you take interest, or do you dismiss them?*

6. Think in context and relationships: Nothing exists in isolation; everything is connected to something—placing issues within the environment that they occur helps to gain an understanding about how systems and relationships function and form. *Have you thought and mapped out how the issue you are considering is connected to other things? Do you know/have you explored the historical and contemporary context that an issue is arising within?*

7. Be visionary and sustainable: What is designed today should create healthier more sustainable and interconnected living environments, which bring about multiple benefits for health and wellbeing to meet the needs of women and girls well into the future. *Are you aware of what First Nations peoples want for their families and communities beyond services or programs being provided? Have you considered how to make your work sustainable and the social, economic, and ecological benefits it could bring to women and communities?*

8. Be intersectional: Voices from the margins must be embraced and all diversities understood and responded to, including First Nations women and girls, those living remotely, those with disabilities, LGBTQIA+SG, and incarcerated adults and children. *Does your work consider diversity, or does it presume a homogenous one-size-fits-all approach will work? Have you invited diverse perspectives and lived experiences to gain a better understanding of the whole?*

9. Be informed by Law and Culture: First Nations knowledge systems encompass vast skills and practices that are significant to all sectors and tell of how to live healthy and sustainable existences. *How is your work and thoughts influenced and informed by women's knowledges? Does the full spectrum of First Nations peoples' experiences have the opportunity to integrate their knowledges and cultural practices into work and projects?*

10. Take a healing-informed approach: Work underpinned by healing addresses the root causes of harms and inequalities, not just the symptoms. *Do you spend time exploring what has happened and how to prevent it from re-occurring, or do you impose predetermined solutions? Do you judge people's behaviours rather than identifying structural drivers?*

The Productivity Commission's review illuminated how the current form of the implementation plan is maintaining harm by remaining a measure that is set and forgotten. The call for a Ways of Working model and a restructure of Closing the Gap's implementation plans is not to create another decorative and bureaucratic process. It is to make a key part of the policy lifecycle central to the Closing the Gap's pursuit of closing the health inequities gap. The gap will not close without implementation plans that are *useful* and *used*. Using the Ways of Working to enshrine the Priority Reforms in Closing the Gap's accountability measures would ensure that policymakers and governments are deeply engaging with the Strategy and aligning with their commitments.

Information request 9

● **Independent mechanism in the broader landscape**

The Campaign proposes that in line with the Closing the Gap Partnership Agreement, an independent mechanism must be established to "drive accountability by supporting, monitoring and reporting on governments' transformations"[31].

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[31] Closing the Gap review: Review of the National Agreement on Closing the Gap Draft Report, pdf (23 August 2023): 13.

The federal Government recognises that there must be a change in the way that programs are evaluated. This is evident in the creation of the newly established Australian Centre for Evaluation (ACE)[32]. As noted in the 2019 Theody Report the "APS's approach to evaluation is piecemeal in both scope and quality, and this diminishes accountability and is a significant barrier to evidence-based policy-making". And while this review assessed the APS as a whole, the issues raised during the review process mirror the same concerns regarding the assessment and evaluation of the National Closing the Gap Strategy.

While it is not clear if the ACE is or will be responsible for evaluating anything with regard to the Closing the Gap Strategy, it is obvious that independent assessments are a key priority for the government. That should include independent assessments on the Closing the Gap Strategy. There needs to be a more holistic narrative around what transformative change is needed, how it is or can be implemented, and a mechanism and framework to measure success[33].

The Closing the Gap Strategy, by design, requires an enormous restructuring of the way governments and agencies currently do business. Given the scope of the Closing the Gap Strategy, the Campaign believes that an independent mechanism is crucial to "drive accountability by supporting, monitoring and reporting on governments' transformations"[34], including their commitments to the Agreement.

Government agencies do not currently have the appropriate internal infrastructure to pursue this structural reform. There is very little data or literature available on step change processes and successes with specific regard to the Closing the Gap Strategy. This makes it difficult to know where or how successes have been achieved and leaves little room for review. Without an independent mechanism to evaluate and assess to aid understanding how successful implementation occurs, efforts will continue to be ad hoc and mismanaged.

A new framework for implementation plans and annual reports, (as mentioned above) in conjunction with an independent mechanism, has the ability to set an enabling environment for government transformations to be accelerated and achieved.

We agree that the independent mechanism should not be responsible for driving change within government. However, we believe that a centralised body that has the data and ability to assess internal governmental reforms is crucial to progressing the Closing the Gap Strategy in a more holistic and timely manner.

Importantly, the independent mechanism should engage closely with and be supported by other established bodies such as the Office of Indigenous Policy Evaluation; the Indigenous Evaluation Council. They can operate in parallel and in partnership with the independent mechanism, which should have a specific mandate to hold governments to account for listening to these advisory bodies and evaluate progress against target reforms.

We acknowledge that the NHLF has also provided a submission outlining the necessity of the independent mechanism and we support in full their recommendations outlining the structure and responsibilities of an independent body.

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[32] Australian Centre for Evaluation: a quick guide – Parliament of Australia (aph.gov.au)

[33] Australian Centre for Evaluation: a quick guide – Parliament of Australia (aph.gov.au)

[34] Closing the Gap review: Review of the National Agreement on Closing the Gap Draft Report, pdf (23 August 2023): 13.

Conclusion

Thank you again for the opportunity to provide a submission on the Draft report.

Again, we would like to thank and recognise the Productivity Commission for their work on the Draft Report and their frank assessment on the progress of the Closing the Closing the Gap Strategy.

The Closing the Gap Strategy currently lacks the accountability infrastructure to create the holistic policy lifecycle that First Nations peoples deserve. The Close the Gap Campaign argues for accountability measures that are culturally appropriate, thorough, empowering, responsive, flexible, and unapologetic.

This position is informed by Priority Reforms and the need for a strong focus on human rights, intersectionality, a holistic systems lens, and First Nations ways of knowing, being, and doing. These theoretical tools model guidelines for designing accountability measures to ensure governments are genuinely engaging in policy design and delivery that is sustainable and meaningful to First Nations Peoples.

As is evidenced in the Draft Report, government responses within the various iterations of the Closing the Gap Strategy- even now within the National Agreement- have been largely static and unresponsive. This is largely the result of ineffective data, and ineffective monitoring and evaluation mechanisms to track progress and hold governments to account.

The Productivity Commission's report rightly posited that these accountability mechanisms lack 'bite'. If accountability measures do not hold governments to account in their efforts to action the Priority Reforms, the Closing the Gap Strategy will be empty words and harmful inaction.

Rebuilding accountability measures within the assessment and reviews of government transformation across the 4 Priority Reform Areas not only recognises failures but could transform government to create positive and meaningful change.

Sincerely

National Close the Gap Alliance Group

October 2023

Close the Gap Alliance Group - Members

1 Aboriginal Health and Medical Research Council of New South Wales

2 Aboriginal Health Council of South Australia

3 ANTaR

4 Australian College of Emergency Medicine

5 Australian College of Midwives

6 Australian College of Nursing

7 Australian College of Rural and Remote Medicine

8 Australian Council of Social Service

9 Australian Healthcare and Hospitals Association

10 Australian Human Rights Commission (Secretariat)

11 Australian Indigenous Doctors' Association

12 Australian Indigenous Psychologists' Association

13 Australian Medical Association

14 Australian Physiotherapy Association

15 Australian Student and Novice Nurse Association

16 Beyond Blue

17 Black Dog Institute

18 Cancer Council of Australia

19 Community Mental Health Australia

20 Congress of Aboriginal and Torres Strait Islander Nurses and Midwives

21 CRANAplus

22 Expert Adviser – Alcohol and other drugs, Professor Pat Dudgeon

23 Expert Adviser – Epidemiology and public health, Professor Ian Ring

24 First Peoples Disability Network

25 Gayaa Dhuwi (Proud Spirit) Australia

26 Heart Foundation Australia

27 Indigenous Allied Health Australia

28 Indigenous Dentists' Association of Australia

29 Indigenous Eye Health Unit, University of Melbourne

30 Kidney Health Australia

31 Lowitja Institute

32 Menzies School of Health Research

33 National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners

34 National Aboriginal Community Controlled Health Organisation

35 National Association of Aboriginal and Torres Strait Islander Physiotherapists

36 Professor Tom Calma AO – Campaign founder, former Aboriginal and Torres Strait Islander Social Justice Commissioner, and National Coordinator – Tackling Indigenous Smoking

37 National Family Violence Prevention Legal Services

38 National Heart Foundation

39 National Rural Health Alliance

40 NSW Aboriginal Land Council

41 Oxfam Australia

42 Palliative Care Australia

43 Public Health Association of Australia

44 Reconciliation Australia

45 Royal Australasian College of Physicians

46 Royal Australian College of General Practitioners

47 SBS, the home of National Indigenous Television (NITV)

48 The Fred Hollows Foundation

49 The Healing Foundation

50 The Pharmacy Guild of Australia

51 Torres Strait Regional Authority

52 Victorian Aboriginal Community Controlled Health Organisation

53 Winnunga Nimmityjah Aboriginal Health Service