



# **Australia's ongoing failure to Close the Gap must honestly be confronted**

Cape York Institute submission to Productivity Commission  
Review of the National Closing the Gap Agreement

**October 2023**

# Introduction

The Productivity Commission's draft report must be reconsidered and finalised to grapple with the reality that **Australia is without a compelling or convincing plan with any prospect of more effectively tackling the wicked problem of entrenched Indigenous disadvantage.**

**It is imperative that the final report of the Productivity Commission tackles the key question of why Indigenous disadvantage, especially in remote communities, continues to worsen on key indicators such as incarceration, detention, child protection and suicide? Why has everything done in the past failed to fix things, and in fact probably made things worse—whether under Coalition or Labor governments?**

The draft Productivity Commission report fails to deal with these key questions. If Australia is to do better in Closing the Gap, the final report of the Productivity Commission must rectify this fundamental flaw.

In truth Australia has pursued a bipartisan agenda at every level of government to Close the Gap since 2008. Every year Closing the Gap reporting continues to confirm we are not seeing the changes we all desire. If we are to begin to turn the parlous situation of Indigenous Australians around, the starting point must be fearless honesty. It must be acknowledged that there is no reason to believe continuing the current approach—even if it is more faithfully and successfully implemented as is the focus of the Productivity Commission's draft report—will achieve the change we all want and need to see.

When an Indigenous child's negative life outcomes can be accurately predicted even generations before they are even born—as is the case under Closing the Gap—it is obscene. Even if implemented to the full extent of its ambition, Australia's approach to Closing the Gap accepts this unacceptable obscenity. Under the Closing the Gap incarceration targets for example, we cannot anticipate parity for our grandchildren or even great-grandchildren. How is this not considered ridiculous and utterly unreasonable in a wealthy capable country such as Australia? Such projections only underscore that as a country we are not even close to correctly thinking about Closing the Gap for the most proportionally incarcerated people on the planet.

## **Cape York results show what's possible**

We know in Cape York, for example, that we can make transformative magic happen much more swiftly to turn around the lives of young people from the most disadvantaged backgrounds, by successfully supporting them to finish school. This is one area in which we are transforming outcomes in the space of around 15 years.

Over the last 15 years we've had 450 young people complete school on the Cape York Leaders scholarship program. This program combines parental responsibility, as parents make financial contributions to support their student, with the opportunity of a high-quality secondary education at some of Queensland's best boarding schools, to build the capability of our young people.

Our results show there is 100% successful school completion of Cape York students on the Cape York Leaders program.

School completion not only dramatically reduces a young person's chance of going to jail, but it also increases their chances of getting a job, and means they are more likely to live healthy, long lives.

Across Australia, only 47% of Indigenous students graduate from secondary school with an ATAR or VET qualification. In Cape York communities this figure is much, much lower—it is approximately 5%. This broader context highlights the extraordinary success of the 100% completion rate of Cape York Leaders program.

This example shows what success building capability can look like. In Cape York we currently have 120 students being supported at some of the best boarding schools and we will be welcoming another 30 to commence in 2024.

Effective solutions, however, are needed for many more Cape York young people.

Devastatingly, there is nothing in the Closing the Gap approach and architecture that allows such on the ground successes to be identified, expanded and accelerated as is required.

## **About Cape York Institute**

Cape York Institute for Policy and Leadership (CYI) is a leading Indigenous policy voice that seeks a fundamental shift away from business-as-usual that has seen Indigenous disadvantage continue to worsen, to a new reform paradigm that is capable of transforming outcomes.

CYI integrates policy expertise and research, with on the ground implementation experience, and co-design across Cape York communities.

CYI's vision is for Cape York People to have the capabilities to choose lives they have reason to value.

# Failure to Hear Indigenous Policy Voices

**Key Indigenous policy critiques of Closing the Gap have been ignored by the Productivity Commission. This is a serious omission given the clear need for Indigenous people and communities to move from being merely as passive recipients of policy, to be critical partners.**

The 2015 [Empowered Communities Design Report](#) is the most comprehensive Indigenous policy analysis conducted in the last 10 years relevant to the Productivity Commission's review. This report was produced by a collaboration of Indigenous regions across the country independently of government. The EC Design Report, however, is not discussed, and barely even referenced, in the Productivity Commission's draft report. Your analysis and recommendations have not been informed by the EC reform proposals, or by EC's progress implementing key reforms in a sustained partnership with the Australian Government (supported by Coalition and Labor governments) in the eight years since.

The 2017 Queensland Productivity Commission (QPC) report on [Service Delivery in remote and discrete Aboriginal and Torres Strait Islander Communities](#), led by Professor Bronwyn Fredericks, who is now Deputy Vice-Chancellor (Indigenous Engagement) at University of Queensland, provides another crucially important Indigenous-led independent analysis of the business-as-usual approach to Closing the Gap in Queensland's Indigenous communities.<sup>1</sup> Again, this report is not discussed, or even referenced, in the Productivity Commission's draft report.

Both of these reports—the EC Design report and the QPC report—respond to the fact that vast resources devoted to Closing the Gap are distributed through a substantial governance, funding, policy and service delivery 'system' that lacks any good design. Each report concludes the status quo is untenable and cannot Close the Gap—and a comprehensive reform agenda is needed to address the systemic dysfunctions at the heart of the relationship between Indigenous communities and government. They highlight:

- Government assumes a disproportionate importance in Indigenous communities, that effectively defines and confines the potential for socioeconomic development. Public funding dominates the economies of remote Indigenous communities in the form of welfare payments and grant funding for service delivery.
- Decisions about what services get delivered, where, to whom, by whom and for how long, are not cohesive or strategic but are made through a supply-side driven, top-down bureaucratic policy and funding maze—that is, it is a 'spray and pray' approach.
- Ongoing failures drive a frenetic pace of policy churn in which progress and learning over time is almost impossible due to lack of stable and cohesive leadership. In the constant cycle of top-down policy reviews, government-led consultations, and submission processes, First Nations cannot exert the influence they need to pursue a cohesive strategy over the long-term for their own places.

**Lack of discussion in the draft Productivity Commission report of highly-salient, existing Indigenous critiques of the Closing the Gap approach—either to refute or affirm what these analyses contend—must be rectified.**

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<sup>1</sup> Queensland's remote and discrete Indigenous communities are characterised by extreme and entrenched disadvantage—accounting for seven of the top ten most economically and socially disadvantaged locations in Australia.

# Failure to Question the Dominant Service Delivery Paradigm

**The Productivity Commission’s draft report does not provide any analysis of whether the gap can be closed while the service delivery paradigm continues to be the universally dominant approach.** There is a compelling argument and a great deal of supporting evidence—that the dominant service delivery paradigm cannot save Indigenous people from entrenched disadvantage. In remote communities especially, Indigenous people are literally dying in the arms of the service delivery paradigm.

Critique of the service delivery paradigm has been led by Cape York since the time when Gary Banks was Chairperson of the Productivity Commission.<sup>2</sup> Noel Pearson’s seminal paper *Our right to take responsibility* (2000) examined the impact of three decades of the pervasive top-down, government knows best, service delivery-focused welfare paradigm in Aboriginal policy, and outlined the need for a fundamental shift to combat the devastating effects of ‘passive welfare’.

The argument that we must shift the approach from passive welfare and the service delivery paradigm, to development, has increasingly been put forward by other local and regional Indigenous voices, including by the EC collaboration. The 2015 EC Design Report urges governments to recognise that Closing the Gap on social and economic outcomes is a development challenge requiring place-based development agendas to inform investment.

The objectives of overcoming deficits, disadvantage and poverty immediately invoke the standard tools of the welfare state: top-down government intervention through income transfers and passive service delivery. Individual, family and collective agency is relegated to the sidelines, displaced by the strategies, rules and procedures of the bureaucracy. Failure to achieve progress is taken as evidence of the need for increased funding, further government intervention and better ‘coordinated’ programs. In contrast, with development as the goal, the solutions are fundamentally different.

... The Nobel laureate economist Amartya Sen conceives the value of development as the means to expand the range of choices (‘freedom’) enjoyed by individuals. Welfare payments may increase personal income but alone are unlikely to expand, and may even constrain, an individual’s life choices due to the crippling effect of dependence.

Instead, a development approach foregrounds the role of individual, family and collective agency and responsibility—the role of Indigenous empowerment. (at p. 13).

The QPC report also very clearly spells out that governments’ pervasive preoccupation with improving services to overcome Indigenous disadvantage is not only flawed but is a key part of the problem and reason for the lack of progress. The QPC explains there is a vicious cycle associated with this fixation on service delivery:

The reliance on government money is seen by many as creating perverse incentives which, in turn, discourage enterprise and perpetuate ongoing dependence on services delivered and funded by government. (p. xxiv).

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<sup>2</sup> See e.g. Bank, G 2003 paper on [Indigenous disadvantage: assessing policy impacts](#)

The QPC argues that rather than focusing on service-delivery alone, a more holistic approach to social, economic, and cultural development is required to improve outcomes, and Indigenous people must play a leading role.

To Close the Gap, Australia cannot simply continue to double down again on the orthodox welfare and service delivery approach. The solution to entrenched Indigenous disadvantage does not lie in top-down efforts to find more or better programs and services that work, or even the right combination or coordination of services and programs that work. An effective approach requires more than can be achieved by governments going on seeking to identify and apply best practice programs and service delivery solutions which each seek to tackle a ‘thin’ slice of the problem. Such an approach may achieve some success at the margins—a program or service may be found to do good things in one area of disadvantage—but it will see the size of that problem itself continue to grow.

It is obscene that in very small, remote Indigenous communities the number of programs and external providers has continued to increase over time, to the point that they may almost match the total population, yet the gap is not closing. For example, the EC Design Report documented there were more than 300 services provided by government and non-government organisations supporting Indigenous communities in the East Kimberle. A number of more recent reports and articles provide similar examples.

**It is crucial the Productivity Commission’s review explicitly deals with the fact the dominant service delivery approach is highly contested.**

## **Failure to Interrogate the Closing the Gap Agreement**

**The draft Productivity Commission report does not adequately interrogate the 2020 National Agreement on Closing the Gap Agreement, and whether it can ever achieve its purpose.** Since 2008 the Closing the Gap approach has been incoherent, inconsistent, inefficient, and ineffective. While we can all agree on the broad goals and targets of Closing the Gap, the Closing the Gap approach itself provides no plan on how to get there. This has been the fundamental flaw no matter who was in power, and no matter what policies and programs have been pursued to Close the Gap.

The key problem of the Closing the Gap approach is the complete disconnect between two things:

1. The high-level policy intent, and objectives and targets of Closing the Gap.
2. Indigenous agency and on the ground action which is where change must occur.

It is very clear one-size-fits-all, top-down government decision making from Canberra does not work to Close the Gap. How to Close the Gap is likely to depend on local context and circumstances—it is likely to look somewhat different across our diverse communities and regions. It is the people of a place who are in it for the long haul, who can provide strategic continuity and learning across time, and across constant changes of ministers, governments and their particular policy and programmatic hobby horses.

Indeed, there has been a longstanding consensus amongst Indigenous people, in research and across governments, that Closing the Gap must fundamentally involve better partnerships with Indigenous people whose lives and futures are at stake. That is, on the ground Indigenous agency—which may be variously referred to as Indigenous “empowerment”, “responsibility”,

“self-determination”, “ownership”, “better engagement/participation”—is necessary to improve outcomes. However, despite the extraordinarily high level of consensus that on the ground Indigenous agency to drive action is essential to Close the Gap, the National Closing the Gap Agreement did nothing new to address the complete disconnect between the high-level policy, objectives and targets and such agency.

The National Agreement, negotiated and agreed with the Coalition of Peaks, was released in July 2020, after a “refresh” process was conducted, given the ongoing failure of Closing the Gap since 2008. The Turnbull Government in 2017 had already delivered its initial rejection of the idea of an Indigenous Voice as requested in the *Uluru Statement from the Heart*, when the relatively new Morrison Government announced the National Agreement, promising it represented “a new way of working with Aboriginal and Torres Strait Islander peoples” to Close the Gap.

The National Agreement added additional targets and nominated four Priority Reform areas but from the outset it offered no likelihood of substantial reform of the approach taken to Close the Gap. The National Agreement in effect allowed the Turnbull and Morrison Governments to sidestep the Voice proposal and avoid serious engagement with detailing or undertaking the systematic structural reforms needed to more effectively Close the Gap by empowering Indigenous people.

Under the National Agreement the system remains top-down, with most power in the hands of the state and territory jurisdictions to determine what actions is to be implemented. There continues to be no connection between the high-level policy intent and on the ground Indigenous agency and action.

The involvement of the Coalition of Peaks is an improvement on not having any Indigenous involvement in the Closing the Gap approach previously. However, the Peaks are not involved in determining place-based action, implementation, learning and iterative adaption, which is how real change must occur across our diverse communities and regions to accelerate progress and Close the Gap.

**From the outset Closing the Gap has failed to connect the high-level policy intent with on the ground Indigenous agency needed to drive change in local communities and regions. There is nothing in the 2020 National Closing the Gap Agreement, or the draft recommendations of the Productivity Commission’s review, likely to address this ongoing, fundamental weakness.**

## **Four Priority Reforms are Enablers, and do not Provide a Reform Policy to Close the Gap**

**Overcoming entrenched inequality in Australia requires transformational reforms, rather than merely tinkering at the edges.** The EC Design Report described the scale and profundity of the shift required by stating there is a need to “create a new centre of gravity in Indigenous affairs” (at p. 31). Similarly, after its extensive inquiry, the overall assessment made by the QPC inquiry is that the current system of Indigenous affairs is “fundamentally broken” (p. viii). The draft Productivity Commission report itself repeatedly acknowledges that the scale and nature of the shift required has been underestimated by government but it does not link this to the inherent weaknesses of the National Agreement’s approach.

The four Priority Reforms are described by the Productivity Commission as “the foundation of the Agreement” (at p. 5). While it is agreed they are most important, the Priority Reforms are

really enabling high level policy commitments only. They do not explicitly provide a reform policy or formula of the kind needed to more effectively Close the Gap.

- 1. Strengthen and establish formal partnerships and shared decision-making.** Partnerships and shared decision-making are central to improving outcomes. As the Productivity Commission notes in the draft report, however, when this Priority Reform was announced in the National Agreement it was not a new idea. Governments at every level and of all persuasions have made high level policy commitments to build a new partnership, and to do thing “with” not “to” Indigenous people etc, many times over past decades. What continues to be lacking is not the commitment to change, but clear and compelling methods to put partnership and shared decision making in place. Given this, it is unsurprising, and in fact entirely predictable, that progress remains “limited”, with the Productivity Commission unable to identify any systemic change toward achieving this Priority Reform.
- 2. Build the Aboriginal and Torres Strait Islander community-controlled sector.** This Priority Reform also speaks to the importance of Indigenous leadership. As noted in the EC Design report there are whole industries and vested interests, involving big money, riding on the back of Indigenous disadvantage. Over decades, the role of Indigenous leaders and organisations has been progressively sidelined, while governments’ and service providers’ interests in the Indigenous industry have exponentially grown. Again, while this Priority Reform identifies a vital aspect of enabling Indigenous leadership capability, it does not provide the kind of reform policy needed to ensure the shift occurs, so it is unsurprising there has been little change achieved.
- 3. Transform government organisations so they work better for Aboriginal and Torres Strait Islander people.** This is an important enabling commitment, but government is simply unable to reform itself in the way envisaged by under the Agreement, and as required to Close the Gap. The draft report’s conclusion this is barely being actioned within governments, is entirely predictable. None of the proposals put forward by the Productivity Commission in its draft recommendations can be reasonably expected to significantly change the situation.
- 4. Improve and share access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.** The Productivity Commission’s draft report identifies it is not clear what this Reform Priority is trying to achieve. To support an effective reform policy, the focus must be the provision of useful on the ground data to inform and drive learning and iterative adaptation of actions taken to Close the Gap.

We disagree that data and supporting indicators must be developed and reported on the Priority Reforms. As the draft report notes the scale of the data development task for reporting at a high level on all the targets etc under the Agreement is already immense and it is “unlikely that all of these will be developed within 10 years of the commencement of the Agreement (that is, by 2030)” (at p. 5). Adding further to the data development exercise, would seem yet another distraction and ‘rabbit hole’ for wasted effort.

Change must be guided and driven far more strongly than is provided through the nomination of these enabling, but vague and high-level commitments in the National Agreement. A long-term reform policy must be clearly set out, and elements mandated in legislation as required to drive the transformation needed.



# No Theory of Change or Acknowledgement of the Need for Theory of Change

**The National Closing the Gap Agreement is not underpinned by any theory of change to guide decision making and action, and which can be tested and adapted as learning occurs. While it is one thing to establish goals and targets to Close the Gap, what is most pressing is to work out what needs to be done to get there: a theory of change is essential.**

The [Productivity Commission](#) itself has previously highlighted that despite more than three decades of economic growth and the fact our systems work well for those Australians that experience disadvantage only temporarily, we have failed to make inroads into what can be called ‘complex’, ‘entrenched’, ‘intergenerational’, ‘deep’ or ‘persistent’ disadvantage—whether Indigenous or non-Indigenous. According to the Productivity Commission, this is an area of “genuine policy failure” in Australia.<sup>3</sup> The Productivity Commission itself has also been clear that effectively addressing persistent disadvantage will be hard, stating “It would be a complex task, and one for which there are few precedents.”

So, in Australia we lack success broadly in this policy area—Indigenous or non-Indigenous. We also have 15 years of dedicated effort to address Indigenous disadvantage, annual Closing the Gap reports over this period and the more comprehensive Overcoming Indigenous Disadvantage reports showing we are going backwards in areas for a relatively small population of First Nations people. It is astonishing that despite the clear need for a rigorous approach to improvement, we have not yet established a theory of change to guide decision making and action, and to assist learning,

**Paradoxically there is little evidence of what needs to happen to Close the Gap, yet some things are very plain.**

On one hand there is every reason to believe Australia does not know what to do to truly turn this crisis around. Problems have become entrenched, cyclical, and intergenerational. Child protection, suicide, and incarceration figures continue to worsen rather than get better.

On the other hand, it is not hard to identify what it takes to have a good life. Children must go to school and must learn. The family home must provide the things children need to reach their potential—love, food, physical and emotional safety, and basic stability. People need work opportunities. These are the ‘bread and butter’ essentials necessary for family development in each and every family. Having these things in place almost provides a guarantee—they are a family’s chance to break the cycle and open up choice and opportunity.

In Cape York we have a theory of change. Adopting Sen’s capability approach, we assert that building capabilities answers the ‘how’ question of Closing the Gap. It will be through iterative building of capabilities that the gap on disparity will be closed.

Further we have learnt that we cannot achieve equity—that is, the necessary capabilities will not be built—without an equal focus on ensuring both opportunity and responsibility. This

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<sup>3</sup> Harris P & Coppel J (2018) *Seven Stories from ‘Rising Inequality: A stocktake of the Evidence’*, Speech given at the National Press Club Canberra, 28 August. The Productivity Commission has also identified that those most likely to remain ‘stuck’ at the bottom—whose lives (and whose children’s lives) are likely to be characterised by a vast array of poor socio-economic outcomes—include Indigenous Australians.

theory of change can be applied universally to the uplift of disadvantaged people—both non-Indigenous and Indigenous.

RESPONSIBILITY + OPPORTUNITY = CAPABILITY

Cape York has identified 18 Capabilities that are foundational and needed to Close the Gap in our communities. These capabilities have been expressed by Cape York Indigenous people across three decades of regional talks and on-country gatherings and Summits.



These capabilities are likely to be universal for Indigenous people, however, different regional and local communities may categorise these capabilities in different language, and their priorities and strategies need to reflect their particular context and circumstances. For example, the Cape York capabilities reflect the circumstance of remote communities, and regional and urban Indigenous communities will have differences.

Most people readily agree that it is important to increase access to opportunity. The QPC report, for example, found the lack of opportunity in Indigenous communities, including economic opportunity, is a fundamental cause of community dysfunction and ongoing reliance on government support. Work opportunities are very much needed in remote Indigenous communities. For decades the various iterations of employment services programs have encouraged Indigenous people in remote communities to take up responsibility in this area, including through employment service programs' participation requirements, but the problem is no amount of responsibility can create opportunity where the private market cannot provide job opportunities and government is unwilling to step in. Responsibility without opportunity can be merely punitive.

Similarly, opportunity without responsibility is not enough. The greatest asset and strength that any individual or community or family can have, is self-reliance and responsibility. Some people, however, particularly progressives, have an aversion to the notion that responsibility is required in addition to opportunity to Close the Gap. For example, improving educational outcomes requires access to high quality education opportunities for Indigenous students. However, responsibility is also required in the form of parental engagement to ensure financial and emotional support to children, and to send them to school every day.

### **Results of the Cape York Welfare Reform (CYWR) trial support this Theory of Change**

Cape York Welfare Reform (CYWR) was correct to identify that overcoming passive welfare means Indigenous authority and leadership must be restored, incentives and disincentives must change, and individuals and families must be supported to take responsibility, to step off the ‘welfare pedestal’<sup>1</sup> and climb a staircase of opportunity, supported by the foundations of positive social norms, and individual and family capability. The foundational design document for the CYWR trial, *From Hand Out to Hand Up*, sets out that to achieve this goal, a comprehensive development agenda with both carrots and sticks—or opportunities and responsibilities—is needed.

The results of the trial’s evaluation confirmed that progress was made on building Indigenous responsibility, but that the key opportunities planned were largely not delivered. The independent evaluation of the trial states:

*The trial’s progress reinforces the notion that the problems of remote Indigenous communities will not be addressed solely by better coordinated and more extensive government services, which have often been the objectives of government reform efforts. Rather, sustainable improvement will require measures that also bring about fundamental behaviour and norm change, **matched with genuine opportunities.***  
[emphasis added]

Michael Limerick, Cape York Welfare Reform Evaluation, 2012, at p. 64

**The draft report of the Productivity Commission must explicitly address the lack of any theory of change to help drive action and learning to Close the Gap.**

## **EC is Right: Empowerment, Development and Productivity is the Reform Policy Needed**

**What is needed to Close the Gap is not (yet another) high level policy commitment but a clear and strong reform policy to make change happen. The EC report is the only serious effort that has been made to outline such a reform policy.**

Since the Royal Commission into Aboriginal Deaths in Custody, and in almost every serious policy analysis since, the fundamental underlying problem which must be addressed to more effectively tackle Indigenous disadvantage has been correctly diagnosed—that of Indigenous disempowerment. In 1991, in his final report of the Royal Commission into Aboriginal Deaths in Custody, the Commissioner, the late Elliot Johnston QC, focused on the importance of the

empowerment of Aboriginal society. He identified three critical elements of such empowerment:

The first and the most crucial is the desire and capacity of Aboriginal people to put an end to their disadvantaged situation and to take control of their own lives. There is no other way.

Only the Aboriginal people can, in the final analysis, assure their own future. This, of course, is no easy thing. Where a people have been put down for so long, deprived of rights, made dependent, regarded and treated as inferior, assigned a totally inferior status in society, some or many become lost in despair.

The second prerequisite is assistance from the broad society and this basically means assistance from governments with the support of the electorate, or at least without its opposition.

The third prerequisite to the empowerment of Aboriginal people and their communities is having in place an established method, a procedure whereby the broader society can supply the assistance referred to and the Aboriginal society can receive it whilst at the same time maintaining its independent status and without a welfare-dependent position being established as between the two groups.

That requires an adherence to the principles of self-determination...

Despite this insight, the Royal Commission made no attempt to describe how the disempowerment of Indigenous people should be remedied so that Indigenous communities themselves can take greater responsibility in finding solutions to the complex problems of Indigenous disadvantage. This was, and still is, a fatal flaw in the Royal Commission's prescription for change.

The EC collaboration detailed the shift required from the welfare and service delivery paradigm to an empowerment, development, and productivity reform policy. The 2015 EC Design Report urges governments to recognise:

### 1. Empowerment

**A wholesale change from the business-as-usual approach to an Indigenous empowerment policy is required. Government must adopt empowerment as its headline national reform policy** to shift from being a "fixer", "director" or "service provider", to be an "enabler" so Indigenous people are not relegated to a passive role but are supported by government "to stand up and take responsibility for their own communities—a critical requirement for real change to occur." (pp. xxi, xxiv, 148 & 180). Government needs to withstand the temptation to 'do things' for people when people can do those things for themselves and their families (p. xxiv).

**With the Voice proposal now dead, Australia has no proposed method for empowerment. Structural reforms continue to be required. This critical matter cannot be left simply unexamined by the Productivity Commission.**

### 2. Development

**Change will not be achieved as desired while Indigenous affairs continues to be viewed through the prism of deficit: overcoming disadvantage or ameliorating**

**poverty. Instead, we should focus on the goal of development to be achieved through a policy of on the ground Indigenous empowerment.**

Closing the Gap in social and economic outcomes is a development challenge, and the lessons of success and failure from development efforts across the globe must be brought to bear on the challenge. EC adopts Sen's definition: development means expanding the range of choices ('freedom') enjoyed by individuals. The practical implications of this are that all policies and programs must support efforts to build capability, self-reliance, aspiration and opportunity, to increase choice.

Under the EC model, place-based development agendas are central. Determined by Indigenous people through participatory processes, place-based development agendas determine local and regional priorities for Closing the Gap. Development agendas provide the basis for partnership negotiations with governments to inform place-based investment, including the redirection of existing resources to reduce waste and duplication and support on the ground priorities and learnings to build capabilities.

The draft Productivity Commission report comes closest to articulating the key change required when it states:

Implementation plans and annual reports need to be documents that drive improved outcomes for Aboriginal and Torres Strait Islander people. To make them more useful, governments need to work more closely with Aboriginal and Torres Strait Islander partners. They need to agree on what actions are the most substantive and critical to achieving the objectives of the Agreement and how they will be implemented, and articulate these in their implementation plans and annual reports. (at p. 6)

In fact, what is needed is Indigenous place-based development plans to drive action and implementation on the ground.

### **3. Productivity**

There is an urgent need to adopt a policy to ensure greater effectiveness and efficiency from the investment made in Closing the Gap. The level of expenditure on Indigenous Australian—which is approximately twice the rate of expenditure on other Australians—can be juxtaposed against limited progress on the ground to starkly illustrate the productivity problem. A huge flow of inputs is achieving very few social, economic and cultural outcomes for Indigenous Australians. In response, a comprehensive productivity agenda is required to improve outcomes with the available resources.

EC is the only Indigenous model with a strong focus on improving productivity. EC has shown the productivity problem in Indigenous affairs can be addressed by placing more responsibility with Indigenous people on the ground.

While ground-breaking progress has been made through EC's Joint Decision Making (see textbox below), there is much further to go to realise the EC vision outlined in the 2015 Design Report of transforming the current ineffective and inefficient funding models. EC will continue to seek and drive structural reforms in this area to ensure transparent place-based, demand-driven funding decisions are made, based on development plans and negotiated with governments.

### **EC's Joint Decision-Making reduces waste and duplication**

EC has trail-blazed important structural reforms through Joint Decision-Making to improve Indigenous empowerment, development and productivity. Joint Decision-Making is a model of shared decision making focused on ensuring service and program funding decisions better meet local needs to reduce waste and duplication.

- Under Joint Decision-Making panels of local people work with government to inform funding decisions made by government.
- More than \$200 million dollars' worth of funding has been considered through EC Joint Decision-Making.
  - To date has focused on NIAA administered funding.
  - The Department of Social Security is now part of EC Joint Decision-Making. This represents the beginning of efforts to reform funding allocations administered by mainstream departments.

Joint Decision-Making is an important transformation of the business-as-usual approach which is entirely supply side driven with funding decisions made by government alone in far off Canberra, without local understandings as input.

Joint Decision-Making has led to more productive use of resources and has proven more effective at making tough decisions to cease funding and redirect it to local priorities than when government makes funding decisions alone.

Joint Decision-Making provides important proof of concept on a scale beyond that of other initiatives. The approach can continue to be scaled up as needed with other government agencies for mainstream funding.

In its 2015 Design Report, EC of course proposed not only would the shift to empowerment, development and productivity be supported by constitutional recognition through Voice, but also that legislation be developed and enacted at the national, state and territory levels to embed the national reform policy, with regions able to opt-in. It remains our experience that we cannot rely on goodwill, good intentions, or even strong high-level policy commitments of government to achieve the empowering partnership approach needed to see transformational change. This is why the gap doesn't close. There is no rigour in the system and a culture of partnership is not structurally supported and mandated. A new way forward to achieve empowerment, development and productivity must be found. There is an urgent need to agree and establish a long-term Reform Policy—say for 10 years—that can withstand changes of government, and which is agreed and owned by all levels of government.

## **Torres Submission Correct: Indigenous Agency, Policy Design and Program Control Needed**

The arguments prosecuted here by Cape York for empowerment and development, which have also been put forward by EC, align with the submissions made to this review by the Torres Shire Council.

The Torres submission notes the “provision of government services by State and Federal governments are crowding out local delivery” and highlights the need for “empowerment for the people of the Torres Strait and Northern Peninsula Area to make their own decisions”. It argues achieving better outcomes requires self-determination and “this has been outlined in numerous reports and inquiries involving State and Federal governments for decades.” The submission goes on to state that the root cause of ongoing failures of Indigenous policy and programs will not be discerned through more and better program evaluation, as continues to be suggested by the draft Productivity Commission report, because “the root cause is the absence of Indigenous agency, indigenous policy design, and indigenous program control.”

Further the Torres submission outlines the necessity of a regional approach to pursuing socioeconomic development outcomes. It notes, for example, that any progress achieved in the Torres region to Close the Gap has no connection to the four Priority Reforms under the National Agreement. It states, for example, progress in terms of educational achievement is the result of families being invested in their children’s education and a significant cohort of young people each year attending boarding school. Again, this is a similar experience and learning to us in Cape York over the last 15 years.

The clear key takeaway message from the insightful input in the Torres submission is not highlighted in the Productivity Commission’s draft report. The Torres submission affirms there is nothing in the extensive Closing the Gap architecture, reporting and monitoring which allows on the ground successes to be identified, expanded, and accelerated as is required to Close the Gap. The Torres submission again highlights what is required is a theory of change and a clear, strong empowerment reform policy to ensure more productive investment in building capabilities. It correctly suggests what is needed is regional assessments of progress to Close the Gap, done in collaboration and partnership with Indigenous people in the region. This would be far more useful than further ongoing high-level assessments from 30,000 feet.

## **Closing the Gap Agreement and Draft Review Premised on a Top-Down Approach**

Both the National Agreement and the draft Productivity Commission continue to be premised on a top-down approach in which the government continues to be seen as the main actor. The draft report is infused with the assumption that government is the policy and program leader. While this continues to remain the case, it shows the Productivity Commission has failed to come to grips with the central need for an Indigenous empowerment, development and productivity approach. For example, the draft report states “The Productivity Commission’s first review of the Agreement shows that governments are not adequately delivering on this commitment.” This reflects the assumption that governments are responsible for Closing the Gap. This assumption must change. As stated in the EC Design Report:

...when the all-too-disappointing outcomes are set out at the start of each parliamentary year in the annual Closing the Gap report, **where is the Indigenous leadership that sees it as an indictment on their failure as much as that of government?** (at p. 40)

The Coalition of the Peaks cannot provide the on the ground Indigenous leadership that is needed, nonetheless not even they are on the hook for achieving any change or reform under the Agreement. EC has been seeking to develop a far more bottom-up approach. Under the EC model, local and regional Indigenous leadership is prepared to step up—and in partnership with government take responsibility for successes and failures in Closing the Gap in their regions and communities.



# Role of Indigenous People Reduced to Holding Government to Account

**The draft report of the Productivity Commission is preoccupied with improving the role of Indigenous people in the very limited sense of passively holding government to account for implementation of measures to Close the Gap. Indigenous people cannot be relegated to the role of passively sitting back and critiquing the work of government to Close the Gap.**

For example, the Productivity Commission notes in its draft report that the implementation plans put forward by jurisdictions under the National Agreement largely catalogue what governments have been doing for many years. These implementation plans were developed with little input from Indigenous people, and for the most part there is no strategic approach that explains “how initiatives that governments have identified will achieve the fundamental transformation envisaged in the Agreement” (at p. 3). However, rather than drawing the logical conclusion that while this remains the case, the Agreement cannot achieve the change needed to Close the Gap, the draft report merely concludes this makes it near impossible “to use these plans to hold governments to account” (at p. 3).

A more effective approach would improve accountability of both sides of the partnership. This can be done if Indigenous empowerment, development, and productivity is made fundamental. Such a model would oblige government to come to new local and regional partnership interfaces to negotiate and agree community and regional agreements setting out the way forward.

Partnership interfaces would not be new organisations as such but would bring the parties together at a table to negotiate and exercise their responsibilities and authority jointly to agree place-based priorities, plans and investment to Close the Gap. Through these partnership interfaces, decision-making and accountability for local service delivery and investment will shift to where it needs to be—at the local and regional level. This is how Indigenous people and government can work together to improve coordination, reduce duplication and overlap, and improve accountability.

Partnership interfaces would enable both government and Indigenous partners on the ground to take much more active responsibility for actions and decision making to Close the Gap. Oversight of implementation would be an active and iterative function of these interfaces, involving government and Indigenous partners. It might be that after deals have been struck, on the ground implementation plans are checked every 100 days, for example, to drive further action and on ground iteration.

It is through partnership interfaces that local and regional Monitoring, Evaluation and Learning frameworks can be established and implemented to track progress in building capabilities against the theory of change. Such frameworks would ensure there is an on the ground learning loop—which is currently entirely missing from the ‘system’—to inform the regular iterative adaptation of policies, programs and service delivery that must occur in place, so progress accelerates over time to Close the Gap.

## Proposed Body

**The draft Productivity Commission report proposes an organisation or entity with dedicated resourcing and staffing be appointed, principally to lead data development.**



**While the proposal put forward is not well developed, this organisation clearly has the potential to cut across and undermine the change needed for Indigenous empowerment, development and productivity.** The report states there are many possible options for the organisation, including an independent research centre, government department, independent government agency, or a unit within a department or agency. It states responsibilities should include leading work with parties to the Agreement to:

- develop a shared understanding and explicitly articulate a conceptual logic underpinning the performance monitoring approach. This should connect key reform actions and outputs under the Priority Reforms to the resulting intermediate outcomes intended to drive improvements in Aboriginal and Torres Strait Islander life outcomes. Intermediate outcomes should include common drivers of change across the socio-economic outcomes, where appropriate.
- identify the most critical indicators of change under the Agreement and prioritise them for data development, following the conceptual logic
- determine the most appropriate level of geographic data disaggregation to hold jurisdictions to account for progress at a regional level, balancing community needs and data limitations
- coordinate and develop solutions for indicators without data with data custodians and Aboriginal and Torres Strait Islander organisations and communities.

The role proposed by the Productivity Commission for this organisation goes well beyond mere data development. The role of any additional organisation in Closing the Gap must be informed by a clear theory of change, reform policy etc. No organisation can or should be appointed to try and devise or retrofit a logic that simply does not exist in the Closing the Gap approach. This responsibility properly belongs to government and Indigenous partners, including on the ground. The Productivity Commission should remain responsible for data development to Close the Gap.

## **Indigenous People have a Vision for Closing the Gap Structures and Policies**

Ultimately the same negative underlying assumption afflicts both the National Closing the Gap Agreement and the Productivity Commission’s review—that is, a failure to imagine that Indigenous people might have a vision for Closing the Gap structures and policies in their own places.

More than any other organisation in Australia, the Productivity Commission is aware of all the evidence showing Indigenous disadvantage has become entrenched, cyclical, and intergenerational, and that despite good intentions and substantial effort from governments of all persuasions over decades, there are many signs Indigenous disadvantage continues to become worse in some areas, particular in remote communities.

The Productivity Commission is also aware of the dense causal pathways leading to such entrenched disadvantage in Australia—whether Indigenous or non-Indigenous. There are many proximate drivers of entrenched disadvantage, but for Indigenous Australians such disadvantage is also underpinned by a unique underlying cause—the historic and ongoing oppression of Indigenous people.

1. Proximate drivers. These include low education and employment; overcrowding and homelessness; poor health, including mental health and cognitive impairment, Foetal Alcohol Spectrum Disorders and disability; alcohol and drug abuse; early contact with the juvenile justice system and intergenerational incarceration; poor parenting, physical and sexual abuse, and the experiences of Indigenous children in out-of-home care.
2. Ultimate causes. This oppression is rooted in the history of colonisation of Australia, dispossession, and racial discrimination. Stolen wages, land and children, and discriminatory laws and exclusion, helped create and perpetuate Indigenous disadvantage. This oppression continues today in the almost complete dependence that Indigenous people have on the governments of the day to make the laws, policies and programmatic decisions that govern their fate and their futures. Objectives of protection and management are still the dominant paradigm for the treatment of Indigenous peoples and communities. Structural, institutional and process changes are needed to confront the ultimate cause of entrenched disadvantage for First Nations peoples. Disempowerment has been the status quo for far too long.

It cannot be reasonably asserted that overcoming Indigenous disadvantage is simply a matter of individual choice, and that no structural change is required to Close the Gap, as so many Australians were led to believe during the recent referendum campaign. The proposal for constitutional recognition to guarantee us a Voice in decisions made about us was precisely the structural change needed to build a new enduring and empowering partnership between Indigenous Australians on the ground and government. However, with the Voice proposal now dead after 15 years of careful development, Indigenous people must work with governments to find a new way forward. Structural reforms to enable empowerment, development and productivity will remain fundamental, although new ways to achieve them now must be found.

The Opposition's current calls for bipartisanship, and the suggestion that what is required is an audit of the money spent on Indigenous people to Close the Gap, reflect partisan politics and have no prospect of genuinely improving outcomes for Indigenous people. There has been no lack of bipartisanship around Closing the Gap, and there is no need for an audit to establish that productivity improvements in Indigenous affairs are desperately needed, or to establish how to tackle key issues of waste and duplication and to improve accountability for better results.

Across Australian governments, no-one has a compelling or convincing plan to tackle this wicked problem. **The Productivity Commission must be clear—the solution does not fundamentally lie in better implementation, accountability, monitoring and evaluation of the current approach.** The response cannot be to continue to double down on orthodoxy—that is, to provide more or different services, try and improve their coordination, monitoring and evaluation from up on high. Our local communities and regions have ideas about how to solve the serious challenges that our families and communities face. Indigenous people on the ground must be allowed to take greater responsibility for improving our own lives and futures. This is how we achieve better results and better use of money in the system. Indigenous people must be active producers and implementers of policy to Close the Gap. They must share responsibility for success and failure, and not be relegated to sitting back and complaining or holding ever-unsuccessful governments to account.