

**Aboriginal Peak Organisations  
Northern Territory (APO NT)**

Productivity Commission  
Ngunnawal Country  
4 National Circuit, Barton ACT 2600  
Via email:

Dear Mr Mokak,

**RE: Review of the National Agreement on Closing the Gap Review paper 2: Proposed approach and invitation to engage with the review**

We welcome the opportunity to provide feedback on Review paper 2 for the Productivity Commission's Review Paper 2. The eight members of Aboriginal Peak Organisations Northern Territory (APO NT) advocate for Aboriginal-led, managed and delivered solutions to issues that relate to us and our families.

APO NT is an alliance of Aboriginal organisations working to promote and protect the rights of Aboriginal and Torres Strait Islander (Aboriginal) people living in the Northern Territory. The APO NT alliance comprises the Central Land Council, Northern Land Council, Tiwi Land Council, Anindilyakwa Land Council, North Australian Aboriginal Justice Agency, Northern Territory Indigenous Business Network, Aboriginal Housing Northern Territory and the Aboriginal Medical Services Alliance of the NT. The member organisations of APO NT are united in their commitment to improving the political, economic, social, and cultural conditions for Aboriginal people in the NT. Since APO NT's establishment in 2010, our members have been working to develop constructive policies on critical issues facing Aboriginal people in the NT and strive to influence the work of the Australian and NT Governments.

**Underlining our collective work is the right to Aboriginal self-determination**, which is defined and expressed in the United Nations Declaration of the Rights of Indigenous People. The primacy of this cannot be understated. As representatives from peak organisations in the NT, we share the aim of protecting and advancing the wellbeing and rights of Aboriginal people and communities in several key areas. Local involvement, ownership and control underpins APO NT's work in advocating for practical and sustainable solutions for Aboriginal people. These are then predicated on policy conditions that support Aboriginal self-determination, including commitments to needs-based funding, building the community-controlled sector and centring Aboriginal decisions in how national strategies are implemented on the ground.

These matters are particularly essential when considering the intended body of work which sits under the National Agreement for Closing the Gap and its impact on meaningful outcomes for Aboriginal people in the NT.

Given the unique cultural, linguistic, and geographic context of the NT we would urge the Commission to prioritise in-person, culturally safe and inclusive hearings in the NT, **including remote communities**. This will enable the commission to hear directly from Aboriginal people and communities on their understanding and appraisal of CTG, with all meetings making use of appropriate language interpreters, community leadership and cultural brokers. Successful engagement with remote communities will require prior consultation to scheduling itineraries to ensure weather, accessibility and cultural activities are taken into account.

It must be stated that most answers to the questions posed in the Review Paper 2 can be found in the extensive consultations that formed the basis for the National Agreement (including APO NT's NT-specific report) and review work currently being undertaken by the Coalition of Peaks and NIAA's CTG Secretariat. This is complemented further by NT specific work, such as the Partnership review currently underway (and as required by the Agreement itself), and the priorities championed by APO NT's Governing Group after your meeting in September. Please include these as part of the foundational work for the review in 2023.

**Importantly, we all recognise that the reforms and progress sought before the National Agreement was signed are still those being sought today.** The recent release of the 2022 Commonwealth CTG annual report speaks to the slow progress against targets, but the solutions espoused in those earlier consults still hold true and remain as relevant as ever. Moreover, it is vital we concentrate on the **action** that will emerge from the consultation as part of this review and ongoing CTG work. Therefore, our answers below will focus on the Priority Reforms, and their implementation in the NT, given they are the main components of the Review itself. We also reiterate previous points made by APO NT leadership to the Commission, earlier this year, including that engagement structures between government and ACCOs are defined at the Territory level, but work is needed to get good structures at the regional level. Governance structures at the Territory level mirror those from national level, but there are no equivalent structures at the regional level. Also, APO NT resources end up being directed at providing local intelligence to service providers that governments fly in from interstate, rather than working with APO NT to build capacity of local service providers.

There are several areas where governments could improve in the way they are implementing the National Agreement on Closing the Gap. These include:

- greater accountability (built into employment contracts for senior officials and demonstrated understanding of Closing the Gap from procurement panels),
- structures that reduce reliance on individuals (where a change in personnel changes the way business is done and stymies progress), and

- at the national level consideration of whether responsibility for coordination of Closing the Gap is best placed with the Department of the Prime Minister and Cabinet instead of the National Indigenous Australians Agency.

Furthermore, in addition to the review assessing the broad range of actions governments are taking, as set out in their Implementation Plans, APO NT recommends a review of broader government actions that have potential to counteract meaningful outcomes being achieved by the work of the Closing the Gap agreement. For instance, the impact of increasing the maximum sentence for spitting at a first responder from 5 to 10 years, and the repercussions this could have on misidentified victims and incarceration rates of Aboriginal women, despite the NT Government's move to repeal some mandatory sentencing provisions in relation to domestic and family violence offences.

To this, the Commission's proposed approach to the review could be strengthened by a review of the leadership structures, governance and information transparency/sharing within the Closing the Gap, including the policy partnerships. We would suggest that the Commission concentrate on facilitating critical self-reflection by governments and government agencies as a key part of the review- to **generate an explicit and tacit understanding of where they need to improve their business to realise the self-determination and shared-decision making principles under the National Agreement**. This is a new approach, a move to avoid the failed 'set and forget' style of Agencies, and high attrition and Executive contracts conjoins a few risks.

**The overwhelming message from APO NT and other Coalition of Peaks members is that the structural and transformative aims of the National Agreement are simply not being met.** Despite many years of the National Agreement and predecessor COAG Agreements, government agencies are still resistant to change that promotes Aboriginal self-determination in principle and practice. And we know that self-determination provides the best means to better outcomes.

We remain optimistic that eventually we will see change, however the reality is that we see very little to no desire for an equal balance of power with Aboriginal organisations. Indeed, across different portfolios, there is a vast difference in how agencies are responding to the aspirational 'new way of working' expressed in CTG. Despite the momentary efforts in non-influential sections of Government, understanding and ownership of the National Agreement is limited to the NTG's Office of Aboriginal Affairs (OAA). Line agencies, who should be central to implementation of the National Agreement, have been, at times, dismissive, defensive, and resistant, which risks momentum for the overall reform agenda. We still experience racism that extinguishes the rights of Aboriginal communities to lead policy change, as part of shared decision making. **We strongly feel the desire to maintain the bureaucratic status quo.**

This lack of confidence in the capability of Aboriginal communities to lead the changes required to meet targets outlined in the CTG plays out in a variety of ways, including in the appropriate resourcing of government partnerships with community. Under the NT Aboriginal Justice Agreement, partnership and shared-decision making is committed to by the way of the establishment of Law and Justice Groups (LJGs) (equivalent to NAAJAs Community Justice Groups (CJGs)) and the Local Decision-Making Framework.

However, there has been no indication of any funding or resources intended for such groups, by the way of sitting fees, travel, consultation, interpretive services and training, to implement the actions aligned to them in the implementation plans, such as developing pre-sentencing reports for the community courts or culturally safe mediation.

Another frequent constraint that limits the effectiveness of partnerships between government and the Aboriginal community are time restricted and tokenistic gestures towards consultation on work intended on meeting targets outlined in the National Agreement. In order to address socio-economic Target 11 of the CTG, to reduce the rate of Aboriginal children in custody, OAA and NAAJA (secretariat of the NT Justice Policy Partnership) identified the evaluation of the Youth Justice Amendment Act 2021 as a critical priority of the draft Terms of Reference. However, despite secretariat attempts to liaise with Territory Families on this work, the NT JPP were not invited to participate in the consultation. The tokenistic consultation consisted of a preliminary meeting, followed by two weeks in which members were to provide feedback on the data analysis of the draft report, said to be implemented in a final draft, of which stakeholders will have from 16 December 2022 to 6 January 2023 to provide final comments.

There is significant potential for place-based partnerships, such as the LJGs and CJGs, and more broadly the NT Justice Policy Partnership to influence the decrease in incarceration rates of Aboriginal people in the NT but not without resourcing, authentic consultation and agreed, mutually respected balance of power.

Governments need to do better so they themselves aren't contravening commitments under the National Agreement, especially regarding prioritisation of funding to Aboriginal community-controlled organisations and partnerships. It is maddening to have to keep repeating the same things, only to carry the expectation that compromise must be borne only by Aboriginal communities and their organisations.

**All of this means we cannot progress in true partnership.**

We know that *Priority Reform Three: Transforming Government Organisations* must be achieved to enable realisation of the other Priority Reforms. APO NT recognises that the independent mechanism for the NT's implementation of the National Agreement will be an important oversight instrument to measure NT-specific progress. This is still under consideration by all parties of NT CTG governance, though we at APO NT recognise this must align with Aboriginal governance structures proposed by the NT's Treaty Commission.

There are certainly NT government institutions that need transformation, both in terms of being free of institutionalised racism and providing services that are culturally safe and responsive to the needs of Aboriginal people. For the NT, these include justice, child and family services, community infrastructure and housing, all of which sit under existing policy partnerships, and therefore reflect a broadly identified need for better shared decision-making structures between Aboriginal and Torres Strait Islander people and governments. Education is another policy partnership that has been enacted in the NT and was identified as an area of need as part of negotiation for the NT's Implementation Plan 1. We would also want to see consideration of future targets or policy partnerships on:

- Homelands

- Appropriate and sustainable economic development and participation, and
- Management of climate change

These are vital to address the poverty enabled and entrenched by the NT government's inability to manage socio-economic priorities and the outlook for 33+% of its population. In addition, we would expect that these partnerships are place-based and developed by Aboriginal leadership, and operationalised in a relational, rather than transactional, way. We would also wish to see to **flexible application of National Agreement targets, so that they are relevant for the NT context**. For example, for CTG socioeconomic Target 15, regarding land, sea and water rights, the Territory already exceeds the target (depending on the definition and measures employed), owing to existing native title claims under the Land Rights Act. Ideally, we would partner with NT government and the Commonwealth to have a goal beyond that as defined for the rest of the continent, owing to the different legislative circumstances of the NT. This is also true of the overwhelming deficit discourse that underpins Closing the Gap, as identified by NIAA itself in 2018<sup>1</sup>, and so the Commission's review must reflect indicators, values and narratives of success, and failures of partnerships, as determined by Aboriginal people themselves.

We cannot yet know if the Commission's review will be done in a way that will complement the Aboriginal and Torres Strait Islander-led review, given the terms of reference for the independent review are still being negotiated. Nonetheless, a flexible approach and application of appropriate Aboriginal research engagement principles (including those as specified in the Commission's proposed engagement approach, most importantly, reciprocity) will be instrumental in obtaining the right story from the right people. For example, there must be an emphasis on accessibility, including language requirements, use of appropriate visual aids, and providing sufficient time for people to participate from a place of informed consent. This consultation must include representatives from the diverse experiences of the communities, including Aboriginal young people, as young as school-aged children, to ensure their aspirations are heard.

The NT's CTG Partnership Working Group comprises APO NT, Local Government Association of the NT, NIAA and NTG's Office of Aboriginal Affairs. APO NT suggests that sessions, led by the Commission, be undertaken with members of the Partnership Working Group, Policy Partnerships and the NT Executive Council of Aboriginal Affairs, during upcoming visits. APO NT can help facilitate these. Moreover, we suggest that the Commission visit the site of the NT's Place based partnership, CIGs, LJGs, Maningrida and its homelands. We recommend meeting with both the project working group and visiting the community.

The community data project is not yet underway (noting that this is incorrectly stated in the Review Paper: the governance arrangements must be in place for Maningrida and homelands before we embark on this project), so we cannot comment on its progress, but stress that both NTG and APO NT are committed to upholding principles of Indigenous Data Sovereignty as part of this project. APO NT will also consider appropriate case studies for the Commission's review and can provide this information after consultation with our members in 2023.

---

<sup>1</sup> Commonwealth of Australia, Department of the Prime Minister and Cabinet, Closing the Gap Retrospective Review

For any further information please do not hesitate to contact APO NT via [secretariat@apont.org.au](mailto:secretariat@apont.org.au)

Yours sincerely

Dr John Paterson, CEO AMSANT  
On behalf of the APO NT Governing Group