



Review of the National Agreement on Closing the Gap

Review paper 3: What we have heard to date — first phase of engagement



The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.

The Productivity Commission

The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission’s website (www.pc.gov.au).

Review paper 3: What we have heard to date — first phase of engagement

The Commission has released this paper to reflect the knowledges, perspectives and experiences of the Aboriginal and Torres Strait Islander people and organisations and government bodies we have met with during the second half of 2022. Further engagement will occur in 2023.

Key study dates

Receipt of terms of reference	7 April 2022
Due date for submissions	12 December 2022
Release of draft report	July 2023
Final report to the Joint Council on Closing the Gap	December 2023

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River of Knowledge
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About the review

In 2020, all Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) signed the National Agreement on Closing the Gap (the Agreement). The objective of the Agreement is ‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians’ (cl. 15).

The central pillars of the Agreement are its four Priority Reforms. These Reforms focus on changing the way governments work.

- Priority Reform One — Formal partnerships and shared decision-making. ‘Aboriginal and Torres Strait Islander people are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements’ (cl. 17a).
- Priority Reform Two — Building the community-controlled sector. ‘There is a strong and sustainable Aboriginal and Torres Strait Islander community-controlled sector delivering high quality services to meet the needs of Aboriginal and Torres Strait Islander people across the country’ (cl. 17b).
- Priority Reform Three — Transforming government organisations. ‘Governments, their organisations and their institutions are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund’ (cl. 17c).
- Priority Reform Four — Shared access to data and information at a regional level. ‘Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to set and monitor the implementation of efforts to close the gap, their priorities and drive their own development’ (cl. 17d).

Implementation of these Priority Reforms is intended to accelerate improvements in socioeconomic outcomes for Aboriginal and Torres Strait Islander people — the Agreement currently contains 17 socioeconomic outcomes and associated targets.

The Commission’s task

The Parties to the Agreement have committed to independent oversight and accountability of progress under the Agreement. This includes the Productivity Commission undertaking a comprehensive review of progress every three years; this is the first such review. It is an opportunity to examine whether governments are changing the way they operate, where outcomes are improving for Aboriginal and Torres Strait Islander people, and where additional effort is needed.

The Commission’s task involves assessing progress against the Agreement’s four Priority Reforms and 17 socioeconomic outcomes and examining the factors affecting progress (appendix A contains the review’s terms of reference). Our final report will be delivered to the Joint Council on Closing the Gap in December 2023 and will be followed within 12 months by an Aboriginal and Torres Strait Islander-led review (cl. 121).

Introduction

The Commission is continuing to engage with Aboriginal and Torres Strait Islander people, organisations and communities, government agencies and non-government organisations (NGOs) to inform the review. Successful engagement, in particular with Aboriginal and Torres Strait Islander people, is critical to ensure the review is effective.

The Commission published *Review paper 1: Engagement approach* on 6 July 2022, which sets out how we will engage over the course of the review and includes four principles of engagement.

- *Fair and inclusive* of all people. We include those who may not often engage or be able to. Everyone who wants to contribute can do so and we hear them.
- *Transparent and open* in how we provide information and make decisions.
- *Ongoing*, where engagement informs every stage of the review.
- *Reciprocal* with our information. At a minimum, we give feedback to Aboriginal and Torres Strait Islander people and their representatives are provided feedback on how their input has been understood and informed decisions.

This paper is part of our commitment to these engagement principles, in particular the second and fourth principles — transparency and openness, and reciprocity. It aims to reflect what we have heard so far and seeks feedback on whether we have understood participants correctly.

The first phase of engagement, which this paper summarises, predominantly involved engaging with organisations and government agencies. Engagement will continue in 2023 with priority given to hearing from communities and people not represented by organisations. This will help to ensure that the Commission hears from people who ordinarily do not have a voice in consultation processes. The next phase of engagement will also include places that the Commission was not able to visit in 2022. The Commission will not be able to visit all regions and communities during the review but intends to visit a range of remote, rural and metropolitan locations.

This paper does not represent the Productivity Commission's views. It summarises what Aboriginal and Torres Strait Islander people and organisations and government bodies have told the Commission during meetings in the first phase of engagement during the second half of 2022. This first phase included meetings with 69 Aboriginal and/or Torres Strait Islander organisations (including community controlled organisations, peaks, councils and regional authorities, service providers and other organisations), and some government agencies and NGOs. Most meetings with Aboriginal and Torres Strait Islander organisations have been part of visits by the Commission to locations across Australia. Meetings with government agencies, mainly through the jurisdictional representatives of the Partnership Working Group, have mostly been conducted online. The Commission has also received public submissions, which are not included in this summary but are available on the Commission's website.

Feedback on the Commission's approach to the review

The Commission sought feedback on its engagement approach. Aboriginal and Torres Strait Islander organisations and government representatives were supportive of the Commission's engagement approach.

A number of Aboriginal and Torres Strait Islander organisations and government representatives mentioned engagement fatigue about reports and consultations, with some saying that Aboriginal and Torres Strait Islander people felt that their voices have not been heard on the issues that they are most concerned about.

The Commission was advised that sufficient time is required for engagement in Aboriginal and Torres Strait Islander communities. Engagement in communities may require several days and should allow time for communities to properly engage, reflect and come back to discussions with considered views in line with community practice.

A number of Aboriginal and Torres Strait Islander organisations and government representatives suggested utilising existing structures within jurisdictions (ranging from structures with recognised cultural authority such as community determined groups to peak bodies and service organisations) to maximise reach. We also heard that the Commission should ensure it meets with people and communities and not only organisations.

The Commission also sought feedback on its proposed approach to assessing progress of the Agreement. Aboriginal and Torres Strait Islander organisations and government parties expressed strong support for the Productivity Commission's review to focus on the Priority Reforms over the Agreement's socioeconomic outcomes.

Initial feedback on implementation of the Agreement

There is support — although not universal — for the Agreement

We heard that there is appetite for change within government, and people want the Agreement to work. One Aboriginal and Torres Strait Islander community-controlled organisation (ACCO) said they want to 'do it right' under the Agreement and not see it fail. Some government representatives said that while there is a way to go with transparency and accountability of actions under the Implementation Plans, they want genuine implementation of the Agreement.

There were, however, some concerns raised about the Agreement from some Aboriginal and Torres Strait Islander organisations. One organisation thought the 'pillars' (Priority Reforms) under Closing the Gap were confused, and others said the Agreement stopped at the State border and did not capture regional views or foster accountability for core issues for each region.

A number of Aboriginal and Torres Strait Islander organisations thought the siloed sector focus was an issue with the Closing the Gap architecture and did not reflect the interdependency of the socioeconomic outcomes. Another Aboriginal and Torres Strait Islander organisation thought the Closing the Gap framework was not useful. We also heard from some groups that Closing the Gap employed deficit-based lenses and language.

Responsibility across and within departments can be unclear

Some Aboriginal and Torres Strait Islander organisations said there was a lack of clarity and accountability about which agencies are responsible for actions under Closing the Gap. We also heard that decisions about implementing actions under Closing the Gap were not being driven down within departments. A government agency noted that the responsibility and accountabilities of ‘lead’ agencies on Closing the Gap initiatives needs to be clarified, and mechanisms are needed to ensure that senior department executives understand and engage with the initiatives in their Implementation Plans.

We heard that in one jurisdiction, Joint Council meetings allow peak groups to speak at the table with ministers and get a response. But we also heard that the meetings to date have been more about government providing updates and seeking endorsement rather than forums enabling decision making to be shared.

Aboriginal and Torres Strait Islander organisations and government representatives highlighted the importance of different parts of government working together. Lack of coordination was noted across what are clearly related areas (for example, alcohol and other drugs, health and mental health).

With regard to funding programs, we heard that government agencies should be looking more at the links between sectors, such as housing and employment or health. Siloed funding means that opportunities that could be mutually and positively reinforcing are being missed. One example is where separate funding blocks are going to childcare and to language programs in the same location, missing opportunities to explore language initiatives in childcare settings.

Implementation has not moved beyond ‘business as usual’

The primary concern about the Agreement is that implementation has not moved beyond ‘business as usual’. We heard that government progress was slow, and some Aboriginal and Torres Strait Islander organisations and one non-Indigenous NGO said the Agreement has not led to actions that will bring about change. As a result, some Aboriginal and Torres Strait Islander organisations felt they needed to continually advocate for government to fulfill its obligations under the Agreement. One Aboriginal and Torres Strait Islander organisation said they thought the National Agreement on Closing the Gap has had no positive impacts on service delivery on the ground.

Reflecting the slow implementation, some peak bodies noted that Implementation Plans produced so far have contained few new actions. One ACCO looked at the Implementation Plans and found they offered nothing that would help ACCOs in their field to grow.

A key concern was the lack of time for Aboriginal and Torres Strait Islander organisations to meaningfully contribute to the development of, or respond to, government-developed Implementation Plans — organisations in some jurisdictions abstained from providing feedback on the plans because they appeared to be already decided. Some government parties acknowledged that the first Implementation Plans were rushed and not as useful as they could be and that they intend to make the next ones more detailed, with clearer actions and delivery timeframes. But we also heard that one jurisdiction has developed a framework for assessing the alignment of proposed policy initiatives with Priority Reforms.

One Aboriginal and Torres Strait Islander organisation noted that decision making is a slow process, which requires time to share information and for the community to discuss and respond. Some Aboriginal and Torres Strait Islander organisations said that they have declined requests to participate in consultations

where they would have had inadequate time to discuss the issues with their communities. An Aboriginal local government council shared that governments do not talk to ‘grass roots’ communities.

There is a congested policy landscape which can create confusion about the role of the Agreement

Some organisations raised concerns about a congested policy landscape — there are many related policies, agreements, and decision-making structures in place and it is not always clear how these fit with the Agreement, its Priority Reforms and the Commission’s review. In particular, there is a lack of clarity about how the Agreement fits with Constitutional recognition and the Voice to Parliament, Treaty processes (in particular in Victoria and Queensland), Local Decision Making initiatives (including in the Northern Territory and New South Wales), and other regional structures, such as Empowered Communities.

Initial feedback on the Priority Reforms and socioeconomic outcomes

Priority Reform One — Formal partnerships and shared decision-making

The Parties commit to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap (cl. 28).

There are some positive signs of governments working in partnership ...

We heard from some Aboriginal and Torres Strait Islander organisations that in certain instances governments are taking small steps to change the ‘business as usual’ approach to relationships and engagement with Aboriginal and Torres Strait Islander people and organisations. Several Aboriginal and Torres Strait Islander organisations have commented that some state agencies appear to be more willing to partner, trial new approaches and engage in shared decision making than others. This appears to be especially true when there is supporting legislation, established Native Title or during a crisis like the COVID-19 pandemic, which incentivises government to share in decision making and shifts the balance of power.

Some Aboriginal and Torres Strait Islander organisations pointed out that successful engagement and shared decision making occurred where the Aboriginal and Torres Strait Islander party or parties had pushed governments to ‘come to the table’, thereby changing the dynamic of top-down, government-led initiatives.

... but commitment to the partnership elements and shared decision making varies substantially in practice

We heard that government still has a long way to go to change the way it works with communities and ACCOs. One organisation said that the government was still trying to understand what shared decision making actually means, while another said there is a risk that different definitions and objectives could arise across different governments. Other organisations stated that governments are still reluctant to relinquish any control or shift the balance of power, which makes shared decision making and community control virtually impossible.

Despite some positive steps, we were told that progress is incremental and not where it needs to be. Aboriginal and Torres Strait Islander organisations and one non-Indigenous organisation said that different levels of government are making different efforts to engage. This can also be true for different agencies within the same jurisdiction.

Although governments state commitments to co-designing programs, some Aboriginal and Torres Strait Islander organisations said that opportunities for co-design felt tokenistic or non-existent in practice. Several organisations said that government wanted to engage in co-design but began every conversation by either managing expectations around budget or saying there was a cap on funding regardless of what the need was in the community. Some Aboriginal and Torres Strait Islander organisations stated that, on occasion, co-design began after government had prepared a proposed approach to what they assumed the issue to be with very little time for organisations to engage before a decision is made.

There were concerns by one representative body that there were no guidelines for engagement with Aboriginal communities and that renewables leases on land would be rushed through without Aboriginal and Torres Strait Islander people being involved in the decision. Another organisation said there were no Aboriginal or Torres Strait Islander perspectives accounted for in the National Plan to End Violence Against Women and Girls, or the causes of violence recognised by the Plan. A number of Aboriginal and Torres Strait Islander organisations stated that when there is a political agenda (such as law and order), any commitments related to Priority Reform One are completely forgotten.

One peak body said that government is retaining decision-making authority on policy, and engaging too late, or not enough, with Aboriginal and Torres Strait Islander people. This was echoed by a number of organisations who said that governments provide unrealistic timeframes for community engagement on policies, Implementation Plans and strategies, and do not put the time into investing in relationships with Aboriginal and Torres Strait Islander communities. Several Aboriginal and Torres Strait Islander organisations stated that governments' or mainstream NGOs' efforts to partner with ACCOs were often a 'box ticking' exercise. We also heard that some relationships were 'not true partnerships', and ACCOs were not allowed to be part of decision making around policy or funding.

Some Aboriginal and Torres Strait Islander organisations said that when they wanted to bring in new, culturally appropriate Aboriginal and Torres Strait Islander decision-making models, government departments said that it did not fit with their processes, rules or risk profile. This is driving perceptions that Aboriginal and Torres Strait Islander organisations need to fit 'round pegs into square holes' with government, undermining the sense of true partnership. Many ACCOs highlighted that when it came to funding for programs, money is given with stipulations on how it can be spent, with little flexibility.

There was also concern that some government actions since the commencement of the National Agreement on Closing the Gap appear to contradict the intent of Priority Reform One and it is not clear if or how governments will be held accountable for these actions. An example highlighted in two jurisdictions was the introduction of justice reforms that increase custodial mandates (such as reversal of presumptions for bail). This predictably increased incarceration of children and young people — despite both those jurisdictions

signing the Justice Policy Partnership which specifically aims to reduce the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system.

Partnerships do not always reflect shared expectations

Resourcing for partnerships was a concern for some Aboriginal and Torres Strait Islander organisations. We were told that Aboriginal and Torres Strait Islander people want to set the priorities and provide input but they need funding support for this to happen.

One organisation voiced concerns that shared decision making was not fully possible if government ‘still holds all the purse strings’, instead advocating for shared investment to bring about shared decision making. Some organisations highlighted the inherent power imbalance and conflict present in a relationship when the government partner to an agreement or arrangement provides operational funding for the other partner. Several organisations stated that governments have unrealistic expectations about the cost and resourcing it takes to provide services across a region and often choose partners that have less culturally informed programs but cheaper proposals.

We heard that there can be a tendency for government to be selective about who they work with, and for only the hard programs to be handed over to ACCOs, or for prospective partners to ask for a letter of support and then disappear.

We also heard that governments appear to cherry pick what issues they consult on and when that consultation will occur. This leads to partnering on already decided solutions, rather than reaching joint agreement with the community about what their priorities actually are and how they might address them.

Expectations of the various parties to a partnership can differ. For example, we heard that mainstream health service providers want Aboriginal community controlled health services to do the ‘hard yakka’ of talking with communities, but give nothing back. Another Aboriginal community controlled health service said they were simply solving problems for the hospital rather than working in partnership. One Aboriginal and Torres Strait Islander organisation is experiencing this as a gap between policy decision making and implementation, with government wanting to make the decisions while expecting local organisations to implement them.

Concerns that some voices and communities are not being heard

Many Aboriginal and Torres Strait Islander organisations told us that some voices are not being heard or need stronger representation through peak groups and/or community organisations, in particular the voices of:

- people in remote regions that are far away from key decision makers
- children and young people
- women, as often only men have a ‘seat at the table’
- Stolen Generations survivors and descendants
- members of the Aboriginal and Torres Strait Islander LGBTQ+ community.

We were told that there needs to be space for grass roots organisations and unincorporated groups to have their voices heard. Some Aboriginal and Torres Strait Islander organisations also told us that regional representation is needed to ensure regional priorities are being heard, and that both state and regional bodies are needed for shared decision making. Several organisations highlighted that the organisations that governments choose to work with can sometimes be seen as ‘creatures of government’ by the community they claim to represent, and that national bodies are sometimes empowered at the expense of regional or state bodies. We heard from some Aboriginal and Torres Strait Islander organisations that the more that governments gravitate towards engaging with peak bodies in their jurisdiction, the less their voices are able to be heard.

At the same time, peak bodies told us that they are at risk of burnout from the demands of processes relating to the National Agreement on Closing the Gap, for which they are underfunded. This was echoed by a smaller organisation who said contributing to partnerships can create a significant burden for the individuals involved.

Priority Reform Two — Building the community-controlled sector

The Parties commit to building formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap (cl. 42).

Funding models do not fit ACCO models and priorities

A consistent message we heard from ACCOs in relation to building the community-controlled sector was the need for more control over funding and capacity building to deliver their services.

We heard that ACCOs were expected to fit the way government works, rather than the other way around. We heard that some government agencies come to ACCOs with an operating model already in mind, and that it can be very hard if an ACCO does not fit this operating model — as they miss out on funds. We heard that requirements are not always compatible with the types of programs ACCOs deliver. This particularly affects ACCOs that provide wrap-around services or trauma-informed services that involve spending a lot of time with individual clients or families.

At the core of this issue is a view that governments do not recognise that the scope of particular issues are different for Aboriginal and Torres Strait Islander people. ACCOs spoke about how governments do not understand that they work holistically and with families, because governments were only accustomed to supporting individuals — but this does not work with Aboriginal and Torres Strait Islander communities where solutions depend on working with the whole family. When services are delivered to Aboriginal and Torres Strait Islander communities in a mainstream frame, they may be unfit for purpose and sometimes cause more harm. For example, we were told that in the child protection sector, survivor-led organisations can deliver models of care that focus on healing, cultural connection and family relationships, but they are not resourced to do this work. As another example, we heard that mainstream feminist approaches to domestic and family violence fail to take account of causes emanating from intergenerational trauma and disempowerment.

Many Aboriginal and Torres Strait Islander organisations said that the funding they receive does not cover the full cost of providing services, such as funding for transportation costs to deliver health services and remote service delivery. We also heard that government funding often does not cover investment in infrastructure and capital works that are needed to effectively deliver — or improve — services.

There was a clearly articulated need for ongoing funding arrangements and longer terms grants to improve continuity in program and service delivery by ACCOs. We heard examples of very short funding (including 12-month grants) for the delivery of essential services, such as health services.

Government funding was said to come with conditions, or ‘hoops’ to jump through, which can present a barrier to obtaining funding. One Aboriginal and Torres Strait Islander organisation said it was easier to deal with a major bank than seek government funding. An ACCO said that the status quo continues to be a transactional approach where ACCOs are required to work to a pre-determined budget and key performance indicators (KPIs) identified by government, which undermines their capacity to define the factors that communities regard as most value, and design and provide effective services that target those. Some ACCOs said they were spending a lot of time getting contracts right — educating funders about appropriate

key performance indicators that align with the needs of Aboriginal and Torres Strait Islander clients. One organisation simply put it as government KPIs being ‘unfit for purpose’.

Several Aboriginal and Torres Strait Islander organisations said they are now saying no to programs and funding if they do not fit with their priorities and models of care. If they can find other funding sources, they are avoiding government funding with its paperwork and strings attached, or being more strategic about which grants they select to avoid too many small grants that can end up costing more to apply for and report against than the funds they receive. We also heard that ‘lifting and shifting’ a mainstream service — that is not meeting the needs of Aboriginal and Torres Strait Islander communities — to ACCOs to deliver simply shifts the risk onto the ACCO.

Challenges in building and sustaining the workforce to support strong sectors

Aboriginal and Torres Strait Islander organisations and ACCOs raised concerns with us regarding building their workforces and retaining staff. For example, an Aboriginal and Torres Strait Islander organisation suggested that community members without formal teaching qualifications should be able to teach languages in schools, given they are often the only people with the knowledge and capacity to pass on these languages.

ACCOs are spending a lot of resources on developing Aboriginal and Torres Strait Islander staff but have difficulty retaining them when government salaries and benefits are better. Several Aboriginal and Torres Strait Islander organisations told us about the inequity of government or non-local workers being provided with free or subsidised housing and better benefits than local workers. This was highlighted during meetings in the Torres Strait, where Commonwealth and State government services employ local workers who are then not available for ACCOs to employ.

Sometimes funding is provided for specific positions that do not match the needs of the organisation — for an administrative position, for example, when a qualified counsellor was needed for one Aboriginal health and wrap-around service provider.

Some ACCOs said that they have a high turnover of staff because of burnout, including from high workload, lack of support and difficulties accessing professional development. Working with clients experiencing trauma can place an additional pressure on staff.

One Aboriginal and Torres Strait Islander organisation spoke of a ‘workforce crisis’, with medical procedures being cancelled because of the lack of doctors and nurses. We heard in one jurisdiction that there was a shortage of health care professionals in remote areas. In other jurisdictions, ACCOs told us they cannot offer competitive wages, often losing staff to private companies or government.

Funding is shifting but the processes do not serve all ACCOs

Aboriginal and Torres Strait Islander organisations told us that some funding is being redirected from mainstream organisations to ACCOs, and that the National Agreement on Closing the Gap has allowed some peak organisations to grow with more funding. But we also heard frustration that a significant amount of funding is going to mainstream rather than Aboriginal and Torres Strait Islander service providers.

We heard from some Aboriginal service providers that some jurisdictions are starting to assume that ACCOs immediately have the capability to take on and effectively deliver government services and as a result, governments are shifting towards sharing risk and service delivery. But some other Aboriginal and Torres Strait Islander service providers said that governments were still reluctant to transfer control to ACCOs.

Aboriginal and Torres Strait Islander services in one jurisdiction told us that government was trying to direct more of its procurement of certain services to ACCOs and providing assistance for ACCO capacity development. However, one service provider noted that the timing of this assistance meant that smaller ACCOs may have been disadvantaged in the process, given they would have had to split their time and limited resources between applying for assistance for capacity building and writing tenders to provide services, while larger, more established ACCOs could simply do the latter.

We heard that significant costs are imposed on ACCOs by government funding requirements. We heard that there is limited support and information available to assist small ACCOs and start-ups to access and navigate funding processes and this detracts from the resources and time that they have available to deliver services to the community. One Aboriginal medical service said there was a lack of feedback from government on unsuccessful grant applications and questioned whether Aboriginal service providers were receiving genuine consideration in grant processes.

One government agency noted that ACCOs face cumbersome reporting burdens — often comparatively greater than the requirements placed on non-Indigenous mainstream providers. An ACCO told us the reporting burden is high for the relatively small funding they receive — and they needed to do more work to justify funding in comparison to mainstream service providers. One ACCO told us they have little visibility of funding opportunities, and the funding that is available often comes with short-notice and onerous reporting requirements.

Competition for funding and resources can undermine collaboration

Some ACCOs expressed the desire to work with other ACCOs and we heard about some consortiums or partnerships of ACCOs that are highly successful. However, other Aboriginal and Torres Strait Islander organisations told us that having to compete with each other for ACCO-specific funding was reducing the ways in which ACCOs work with each other. There are concerns that local ACCOs now need to compete for funding with ACCOs that are from outside the area, despite having stronger community credibility and language capability. We heard that in remote areas people would prefer local ACCOs be funded rather than interstate fly-in-fly-out services.

We also heard that in some sectors or places, government itself is acting as a competitor — for example, in running a dental clinic, and that government organisations are also competing with ACCOs — not just for funding, but for resources such as staff and accommodation. We also heard an example where a government department took over delivery of a program that an Aboriginal and Torres Strait Islander organisation had developed and trialled.

Concerns were raised that NGOs are not providing services with the same cultural awareness and safety. A view was expressed that mainstream service providers have been able to grow and become more financially sustainable while delivering programs that do not appear to be improving community outcomes. The child protection sector was highlighted as an example of a sector that is dominated by mainstream providers who lack cultural capability. An Aboriginal and Torres Strait Islander organisation suggested that a policy was needed that required NGOs to involve ACCOs in the services they deliver to ensure cultural safety. Another Aboriginal and Torres Strait Islander organisation said that Priority Reform Two must not detract from accountability of mainstream service providers to deliver better and culturally safe services for Aboriginal and Torres Strait Islander people.

We heard from one ACCO that some NGOs are unwilling to step aside to allow ACCOs to deliver culturally appropriate services due to a focus on financial sustainability, which treats Aboriginal people as 'commodities'. One Aboriginal and Torres Strait Islander organisation noted that the government's approach was to give funding to large NGOs to then engage with ACCOs, rather than the other way around, and another said that everything goes to the local NGO, even though ACCOs should be prioritised.

Monitoring and evaluation needs to support effective programs

We heard a concern that government funding decisions lack proper scrutiny and rigorous evaluation. This makes it difficult to identify effective programs and build the evidence base to scale them. Some Aboriginal and Torres Strait Islander organisations said they wanted to commission an external evaluation of certain programs but were unsuccessful in seeking government funding to support this. We also heard that the ‘evidence hurdle’ for ACCOs to receive program funding can be higher than for mainstream service deliverers.

Priority Reform Three — Transforming government organisations

The Parties commit to systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people. (cl. 58)

The transformation of government is proving to be challenging

Some organisations suggested that governments still need to decide what they are trying to achieve to transform and how to achieve it. We heard that some jurisdictions are doing better at this than others. For example, one jurisdiction is enlisting their Public Service Commission to take a lead role in the transformation of government organisations.

We heard that there is often ignorance within government about the implications of the Agreement and organisations’ obligations under Priority Reform Three beyond agencies or teams that are focused on Aboriginal and Torres Strait Islander matters. That said, we have heard from government representatives in two jurisdictions that there is progress being made on how Closing the Gap considerations can be integrated with cabinet and budget processes.

Several Aboriginal and Torres Strait Islander organisations and government representatives told us that awareness of Priority Reform Three (and the Agreement more broadly) is variable across the public sector and is often concentrated towards the top of the organisational hierarchy; however, further down the hierarchy, in regional offices, and at the service delivery level, awareness — and change — is often inconsistent or non-existent. We also heard that even where positive legislative changes have been made, behaviours at the service level can be slow to adjust, or legislation can be misinterpreted (child protection services and policing were given as examples by some Aboriginal and Torres Strait Islander organisations).

Many organisations told us that changes tend to be made only when they are driven by particular people in, and outside of, government. This leaves the process of transformation heavily reliant on individuals and subject to key personnel risk. Similarly, a lack of change was cited by some due to certain personnel remaining in government agency positions. A number of organisations expressed the need for structures embedded in agencies and the public service that reduced reliance on personalities for change.

Both government agencies and other organisations noted that politicians and public servants have a crucial role in the transformation of government organisations. One ACCO made the point that it should not be left to Aboriginal and Torres Strait Islander people within government to progress change. Related to this, it was suggested by some Aboriginal and Torres Strait Islander organisations that public servants’ employment contracts should reflect their obligations under the National Agreement on Closing the Gap. We heard that this is happening in at least one jurisdiction.

Institutional racism was raised as a continuing problem

A range of organisations spoke of the need for government agencies to address institutional and systemic racism. At the same time, one peak ACCO commented that it is hard to work with government agencies on Priority Reform Three when government employees are reluctant to acknowledge or talk about racism. Another organisation relayed an instance where an allegation of racism at a government agency was investigated but their perception was that this was only done so that the agency could be seen to be doing something, with no meaningful follow-up actions taken.

Some specific areas of government service delivery were singled out:

- Aboriginal and Torres Strait Islander people and organisations in multiple jurisdictions spoke of racism by police. This included specific mention of targeting of Aboriginal and Torres Strait Islander children. Government representatives in one jurisdiction singled out the justice sector more broadly as an area where progress is slow.
- One organisation told us that health is another area where racism is an ongoing problem. We heard that racism is a barrier to Aboriginal and Torres Strait Islander people accessing and receiving quality care in mainstream services but also that it is hampering the ability of those services to recruit and retain Aboriginal and Torres Strait Islander staff.
- Other Aboriginal and Torres Strait Islander organisations mentioned racism in schools, and ineffective efforts to address the problem.

Many government agencies are rolling out training in cultural awareness, or capability, or competence, or safety. We heard that such training is largely ineffective and on its own will not address racism. One organisation went as far as saying that such training was a waste of money.

Concerns that governments do not recognise the value of culture

Some Aboriginal and Torres Strait Islander organisations claimed that governments do not understand or recognise the value of culture. For example, one organisation we spoke with pointed out that in contrast to government they make staffing decisions so that they can appropriately service people where avoidance relationships are involved. Other organisations said that mainstream services do not recognise that connection to Country and kin are critical to recovering from trauma and mental health more broadly.

We were told that some governments do not appreciate how Aboriginal and Torres Strait Islander culture varies from place to place. This has implications for what governments do directly but also for who they fund: as noted earlier, an ACCO from one area does not necessarily have the capability to deliver services in another area.

The importance of culture was discussed in relation to land management, corrections, education, domestic violence and health (including mental health). People spoke with us about the value of culture in itself as well as the flow on effects of valuing culture. For example, we were told that meeting children's cultural needs can improve school attendance and achievement, incorporating Aboriginal and Torres Strait Islander perspectives on causality could improve approaches to domestic and family violence, and culturally informed maternity care can improve health outcomes for women and babies.

The importance of culture was frequently mentioned in relation to child protection. We were told that government models of child protection are based on western understandings that in some ways do not align with Aboriginal and Torres Strait Islander understandings and approaches, particularly in relation to the role of the whole family. One ACCO told us about how they had success with a culturally appropriate family-led decision-making model but the relevant government department stated that it did not fit into their process. Another ACCO told us how after decades working in child protection where the most successful results have come from working with the whole

family they are still told not to forget that the child is the (sole) focus. In another jurisdiction, an ACCO complimented their child protection agency's decision to employ an in-house cultural advisor.

Government approaches to engagement are often seen as tokenistic and underdone

Some organisations we met with noted some improved practices by government in relation to engagement, including consultation happening earlier than in the past.

A larger number of organisations noted various ways in which they regarded governments' practices in relation to engagement to be deficient. We heard from multiple organisations that when engagement does happen it is often unclear how the information provided by Aboriginal and Torres Strait Islander people has been used and whether it has had any impact on government decisions.

The most frequently cited issue in relation to engagement was that governments do not allow sufficient time for engaging on policy proposals, particularly given Aboriginal and Torres Strait Islander organisations' desire or requirement to properly engage with community (this is discussed in relation to Priority Reform One above).

Priority Reform Four — Shared access to data and information at a regional level

Shared access to location specific data and information will support Aboriginal and Torres Strait Islander communities and organisations to support the achievement of the first three Priority Reforms (cl. 69).

Data are important, but there are gaps and quality issues

Many review participants emphasised the importance of data, especially for service planning, advocating for funding, and allocating funding across different regions.

However, sometimes, the data and information that participants considered valuable in assessing need and service delivery are not collected. For example, a number of organisations pointed to a lack of expenditure reporting and service mapping in their location or policy area. Several organisations also noted a lack of program evaluations, particularly independent evaluations.

Even where data are available, people said that there are issues with the quality. For example, we heard that:

- government data are sometimes inaccurate — one reason for this was that sampling may exclude certain groups of people or communities
- data are not sufficiently disaggregated by geography, type of service or groups of people with different characteristics
- data on the same topic held by different organisations or information systems are not aggregated or collected in a consistent way
- data across different topics are not linked, which makes it difficult to get a holistic picture
- the way in which indicators are conceptualised or specified does not suit the community or does not align with their values.

We also heard that the data collected is not always of value to Aboriginal and Torres Strait Islander organisations, communities and people. A couple of Aboriginal and Torres Strait Islander organisation noted

that governments should seek to understand what data communities and Aboriginal and Torres Strait Islander organisations need, and how governments might be able to provide it.

We heard a number of examples where Aboriginal and Torres Strait Islander organisations had had the opportunity to shape the data collected by government — for example by working with government to set KPIs for programs.

In addition to poor quality data, we also heard that data is sometimes not appropriately contextualised or translated into meaningful messages. For example, one Aboriginal and Torres Strait Islander organisation pointed to the need for data to be placed in its regional context, because similar numbers for different regions could mean very different things.

Some people can access data and information, but many cannot

Some organisations said they were able to obtain the data they needed, either by requesting it from government or undertaking their own data projects. Several participants pointed to data sharing initiatives with government that made or intended to make data more readily accessible.

However, many others said that getting access to government data is difficult. Police, justice and health data in particular were highlighted as hard to access.

Some Aboriginal and Torres Strait Islander organisations observed that knowing someone with access is often key to getting data. Reasons given for why governments are not sharing data included that governments do not trust community organisations with data, and that government officials are risk averse.

Indigenous data sovereignty is not always recognised

In general, organisations we engaged with considered that there is a lack of recognition of Indigenous data sovereignty. They noted that data is often taken from Aboriginal and Torres Strait Islander people, with no feedback or ability to obtain the data for their own analysis, or no improvement in community services. Some observed that Aboriginal and Torres Strait Islander people and organisations are not leading, or sometimes even involved in, data and research projects about them. This meant that they cannot influence what is studied to ensure that the projects are beneficial to them.

One Aboriginal and Torres Strait Islander organisation said that primary health networks are trying to access ACCOs' data, but ACCOs do not want to provide the data. Another said that it often submits data to its peak body, but does not know how it is used.

Some Aboriginal and Torres Strait Islander organisations told us that they do not have sufficient capability or resourcing to undertake data activities (such as collection and linkage), and do not feel supported to increase their capability. Those that do collect their own data said that it often does not match official data, and that governments and other mainstream organisations sometimes do not believe their data. One organisation said that the type of data that Traditional Owners want to convey do not align with governments' ideas about what is needed for an evidence base.

Progress on community data projects has been slow

We also heard that progress on many of the community data projects has been slow. The reasons given for this varied across jurisdictions, and included changes in personnel at the relevant government agency and the need to first complete other related work.

One Aboriginal and Torres Strait Islander organisation also told us that the selection of the location of the community data project in their jurisdiction was not community driven.

Socioeconomic outcomes

In accordance with our proposed approach for the review (Review paper 2: *Proposed approach and invitation to engage with the review*), our first phase of engagement (up to the end of 2022) largely focused on understanding progress against the Priority Reforms. However, while they were not the main focus of the discussions, many participants shared their perspectives on the Agreement's socioeconomic outcomes (SEOs).

More holistic policy responses are needed to progress the SEOs

We heard that policies targeting specific outcomes often neglect the important interdependencies between the SEOs. For example, many participants identified that better housing outcomes would lead to improvements in other domains such as mental and physical wellbeing, education, employment and family violence. Others noted that mental health issues and housing are not given adequate consideration as factors that contribute to people entering the criminal justice system. Several participants also stated that insecure housing, alcohol and other drug use, as well as undiagnosed brain injuries and other mental health issues, can increase the risk of family violence.

Siloed and inconsistent policy responses both within and across jurisdictions were highlighted as inhibiting progress against the SEOs. One participant noted the lack of a coordinated approach to addressing family violence between the relevant Commonwealth departments and agencies. Another organisation pointed out that the Commonwealth and respective State jurisdiction are yet to prepare a joint strategy for improving Aboriginal employment outcomes. The introduction of justice laws that increase custodial mandates (previously discussed under Priority Reform One) was seen by several organisations as a stark example of jurisdictions enacting new policies that contradict their commitments to the SEOs, in this case the adult criminal justice outcome (SEO 10) and the youth criminal justice outcome (SEO 11).

Participants also raised the issue that governments do not focus enough of their effort on prevention and early intervention. For example, participants stated that in the criminal justice system there was insufficient effort on youth diversionary programs or post release support services which help reduce recidivism. Similar issues were also raised for the health, family violence and child protection SEOs.

There are some concerns about how the SEOs are measured

A common concern regarding the SEOs was that some targets do not reflect an understanding of the type of effort needed to support better outcomes. For example, several Aboriginal and Torres Strait Islander organisations suggested that in addition to a target to increase the number of students completing Year 12 or an equivalent qualification, measures should also account for education quality, teaching standards and the importance of an Aboriginal and Torres Strait Islander curriculum (including classes in language).

There can also be tension between the intended objectives of the SEOs and their targets. We heard that progress towards increasing Native Title (Target 15a) does not necessarily lead to maintaining an economic relationship with the land (one aspect of SEO 15). This is because Prescribed Body Corporates or Native Title groups cannot use land granted under a Native Title decision to secure finance which would allow them to develop the land. Moreover, Native Title settlements can be detrimental to social and emotional wellbeing due to the trauma exposed during the process.

Other themes that we heard with respect to SEOs and their targets included:

- The existing set of SEOs leave out or do not direct attention to important related areas. These include adult education and literacy, disability, alcohol and other drugs, and homelessness.
- National level targets can become or be seen as irrelevant in certain locations. Some participants suggested that the targets should be set at a regional level to reflect and drive effort towards local

priorities. As an example, *Target 15a: By 2030, a 15 per cent increase in Australia's landmass subject to Aboriginal and Torres Strait Islander people's legal rights or interests*, was seen as having limited value in the Kimberley as more than 90 per cent of its land is already under native title. In contrast, another participant contended that reducing family violence to zero was an unachievable and utopian target.

- One participant proposed that interim targets should be established. Specifically, it was suggested that interim targets for the two criminal justice outcomes (SEOs 11 and 12) that are no more than 18 months apart would allow for a better understanding of progress towards the 2031 outcome.

The data does not tell the whole story

There were also concerns that the SEO data may provide an inaccurate picture of some outcomes. Specific areas that were raised included:

- issues with how data are collected. Examples provided by participants included educational attendance data being vastly different from the attendance rates observed by teachers and incorrect recording of home addresses resulting in homelessness being captured in reporting of overcrowding
- issues with the scope or representativeness of the measures. Examples included the family violence measure (SEO 13) not including sexual or other forms of violence and youth justice data (SEO 11) not capturing 'paper arrests' especially in regional areas.
- issues with aggregating and harmonising data from different agencies and /or disparate systems. This was raised primarily in relation to health data and family violence data.

In addition, multiple participants highlighted that progress data remains unavailable for some targets such as *Target 17: By 2026, Aboriginal and Torres Strait Islander people have equal levels of digital inclusion*, while outdated data in areas such as family violence obscures an understanding of the true level of need.

A. Terms of reference

I, Josh Frydenberg, pursuant to Parts 2 and 4 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake a review of progress on Closing the Gap.

Background

The goal of the National Agreement on Closing the Gap (the Agreement) is to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians. The Agreement was developed in partnership between Aboriginal and Torres Strait Islander representatives and all Australian governments and commits governments to working in full and genuine partnership with Aboriginal and Torres Strait Islander people in making policies to close the gap.

The Agreement is built around four Priority Reform outcomes and 17 socioeconomic targets (and agreement to develop two additional targets, on inland waters and community infrastructure). The socioeconomic outcomes focus on measuring the life experiences of Aboriginal and Torres Strait Islander people. The Priority Reform outcomes are:

- Strengthening and establishing formal partnerships and shared decision-making.
- Building the Aboriginal and Torres Strait Islander community-controlled sector.
- Transforming government organisations so they work better for Aboriginal and Torres Strait Islander people.
- Improving and sharing access to data and information to enable Aboriginal and Torres Strait Islander communities to make informed decisions.

Parties to the Agreement agreed that the Productivity Commission will undertake a comprehensive review of progress every three years. The review is to inform the ongoing implementation of the Agreement by highlighting areas of improvement and emphasising where additional effort is required to close the gap. Parties have committed to undertaking actions if the review indicates that achievement of any of the targets that are set out in the Agreement is not on track.

This review will complement the Independent Aboriginal and Torres Strait Islander led review of progress.

Scope of the inquiry

In undertaking the review, the Productivity Commission should:

1. analyse progress on Closing the Gap against the four Priority Reform outcome areas in the Agreement;
2. analyse progress against all of the socioeconomic outcome areas in the Agreement; and
3. examine the factors affecting progress.

The Productivity Commission should provide recommendations, where relevant, to the Joint Council on Closing the Gap on potential changes to the Agreement and its targets, indicators and trajectories, and on data improvements.

In undertaking the review, the Productivity Commission should have regard to all aspects of the Agreement, consider all parties' implementation and annual reports, and draw on evaluations and other relevant evidence.

Process

The Productivity Commission is to consult broadly, particularly with Aboriginal and Torres Strait Islander people, communities and organisations, and should invite submissions and provide other options for people to engage with the review. The Productivity Commission should publicly release a draft report and provide its final report to the Joint Council on Closing the Gap by the end of 2023. The final report will also be published.

The Hon Josh Frydenberg MP

Treasurer

[Received 7 April 2022]

B. Who we met with

The Commission spoke with the following organisations during phase one of our engagement in 2022:

Organisation/Body name
Aarnja Ltd
Aboriginal and Torres Strait Islander Legal Service (Qld)
Aboriginal Drug & Alcohol Council
Aboriginal Family Legal Services WA
Aboriginal Family Support Services
Aboriginal Health Council of South Australia
Aboriginal Housing Victoria
Aboriginal Land Council of Tasmania
Aboriginal Medical Service (AMS Redfern)
Aboriginal Peak Organisations Northern Territory
ACT Government Partnership Working Group (PWG) representative
Australian Education Research Organisation
Australian Human Rights Commission – Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner
Australian Local Government Association PWG representative
Binarri-Binyja Yarrawoo Aboriginal Corporation
BlaQ Aboriginal Corporation
Broome Regional Aboriginal Medical Service
Bundiyarra Aboriginal Community Aboriginal Corporation
BushMob Aboriginal Corporation
Cape York/Gulf Remote Area Aboriginal & Torres Strait Islander Child Care - Advisory Association Inc
Central Australian Aboriginal Congress
Coalition of Aboriginal and Torres Strait Islander Peak Organisations
Coota Girls Aboriginal Corporation
Danila Dilba Health Service
Deadly Connections Community & Justice Services
Djirra
Federation of Victorian Traditional Owners Corporations
First Peoples' Assembly of Victoria
Garnduwa Amboorny Wirnan Aboriginal Corporation
Gelganyem Limited
Geraldton Regional Aboriginal Medical Services
Gumatj Corporation Ltd
Indigenous Education Consultative Meeting
Institute of Urban Indigenous Health
Kimberley Land Council
Kinchela Boys Home Aboriginal Corporation

Organisation/Body name
Koorie Youth Council
Kurbingui Youth and Family Development
Larrakia Nation
Laynhapuy Homelands Aboriginal Corporation
Lena Passi Women's Shelter Association
Literacy For Life Foundation
Mura Kosker Sorority
National Aboriginal and Torres Strait Islander Legal Service
National Indigenous Australians Agency (NIAA) Commonwealth Government PWG representative
Neeraj Gill and Maree Toombs
Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Women's Council
NIAA Arnhem
North Australian Aboriginal Justice Agency
North Qld Land Council
NSW Aboriginal Education Consultative Group
NSW Aboriginal Land Council
NSW Child, Family and Community Peak Aboriginal Corporation
NSW Government PWG representative
NSW Treasury - First Nations Expenditure & Outcome Policy & Budget Group & First Nations Economic Wellbeing Branch
NT Children's Commissioner
NT Government agencies
NT Government PWG representative
NT Government Reform Management Office
NT Justice Policy Partnership
Nunukuwarrin Yunti of SA Inc
Nyamba Buru Yawuru Limited
Nyoongar Outreach Services
PwC Indigenous Consulting
Queensland Aboriginal and Islander Health Council
Queensland Aboriginal and Torres Strait Islander Child Protection Peak
Queensland Family and Child Commission
Queensland Government PWG representative
Queensland Indigenous Family Violence Legal Service
Sisters Inside Inc
South Australian Government PWG representative
South East Tasmanian Aboriginal Corporation
South West Aboriginal Land and Sea Council
Sydney Region Aboriginal Corporation
Tasmanian Aboriginal Centre
Tasmanian Aboriginal Legal Service
Tasmanian Government Department of Premier and Cabinet

Organisation/Body name
Tasmanian Government PWG representative
Tauondi Aboriginal College
Telethon Kids Institute
Torres Shire Council
Torres Strait Regional Authority
Victorian Aboriginal Heritage Council
Victorian Aboriginal Community Controlled Health Organisation
Victorian Government PWG representative
Wellington Aboriginal Corporation Health Service
West Kimberley Futures Empowered Communities
Western Australian Government PWG representative
Winnunga Nimmityjah Aboriginal Health and Community Services
Wunan Foundation
Wunan Health
Wungening Aboriginal Corporation
Yamatji Marlpa Aboriginal Corporation
Yarrabah Aboriginal Shire Council
Yorganop Association
Yorgum Healing Services
Yothu Yindi Foundation