



# Review of the National Agreement on Closing the Gap

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

Plain English version



**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.**

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### **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](http://www.pc.gov.au)).

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### **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.

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### **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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## About the review

The National Agreement on Closing the Gap is between these Parties:

- All Australian governments
- The Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks)

The Parties signed the National Agreement in 2020. Its purpose 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’ (clause 15).

The National Agreement has 4 Priority Reforms. These Priority Reforms are about 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’ (clause 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’ (clause 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’ (clause 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’ (clause 17d).

There are 17 socioeconomic outcomes (SEO) with targets in the National Agreement. When the Priority Reforms happen, these outcomes should happen faster.

## Our task

The Parties agreed that the Commission's reviews would be one way to keep track of progress against the National Agreement.

We are doing a thorough review every 3 years. This is the first review. It will show:

- where governments are changing how they work
- where outcomes are improving for Aboriginal and Torres Strait Islander people
- where there needs to be more effort.

We will:

- assess progress against the 4 Priority Reforms and 17 SEOs.
- find out what affects progress (the terms of reference are at Appendix A).

We will deliver our final report to the Joint Council on Closing the Gap by the end of December 2023. One year later, there will be an Aboriginal and Torres Strait Islander-led review (clause 121).

# Introduction

To inform the review, we are engaging with:

- Aboriginal and Torres Strait Islander people, organisations and communities
- government agencies
- non-government organisations (NGO).

The review depends on quality engagement with Aboriginal and Torres Strait Islander people.

We published Review paper 1: Engagement approach on 6 July 2022. It set out how we will engage over the course of the review.

The paper includes 4 principles of engagement:

1. **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.
2. **Transparent and open** in how we provide information and make decisions.
3. **Ongoing**, where engagement informs every stage of the review.
4. **Reciprocal** with our information. At a minimum, we give feedback to Aboriginal and Torres Strait Islander people and their representatives. They know how we have understood their input and use it to inform decisions.

This paper is part of the second and fourth principles.

It aims to:

- reflect what we have heard so far
- find out from people if we have understood them.

This paper talks about engagement with organisations and government agencies – the first phase.

Engagement will continue in 2023. We aim to hear from communities and people first rather than organisations.

This means we will hear from people who do not usually have a voice in consultations.

In the next phase, we will include places we could not visit in 2022. We will not be able to visit all regions and communities during the review. But we aim to visit a range of remote, rural and city places.

This paper does not represent the Productivity Commission's views. It says what people told us during meetings, including:

- Aboriginal and Torres Strait Islander people and organisations
- government bodies.

These meetings were in the first phase of engagement (in the second half of 2022). We heard from:

- 69 Aboriginal and/or Torres Strait Islander organisations, including:
  - community-controlled organisations
  - peaks
  - councils and regional authorities
  - service providers
  - other Aboriginal and Torres Strait Islander organisations.

- government agencies
- NGOs.

We met with most of the Aboriginal and Torres Strait Islander organisations during our visits across Australia.

We met with people from government agencies through the Partnership Working Group. These meetings were mainly online.

We also received public submissions, which are not included in this summary but are available on the Commission's website.

## **Feedback on our approach to the review**

We asked for feedback on our engagement approach.

Support for the approach came from:

- Aboriginal and Torres Strait Islander organisations
- government agencies.

Some people from these groups said:

- they were tired of engagement about reports and consultations
- Aboriginal and Torres Strait Islander people felt they were not heard on the issues that matter to them most
- to get the best reach, use structures already set up, like community-determined groups, peak bodies and service organisations.

We were told to give proper time for engagement in Aboriginal and Torres Strait Islander communities.

Engagement in communities may need several days.

We should allow time for communities to:

- properly engage and reflect
- come back with informed views in line with community practice.

We also heard we should meet with people and communities, not just organisations.

We also asked about our proposed approach to assessing progress of the National Agreement.

There was strong support for us to focus on the Priority Reforms over the SEOs.

# Initial feedback on implementing the Agreement

## There is support for the National Agreement, but not from everyone

We heard that people within government want change. People want the National Agreement to work.

One Aboriginal and Torres Strait Islander community-controlled organisation (ACCO) said they want to 'do it right' under the National Agreement and not see it fail.

Some government agencies said that:

- actions under the Implementation Plans could be more transparent and accountable
- they want real implementation of the National Agreement.

Some people from Aboriginal and Torres Strait Islander organisations raised concerns with the National Agreement:

- One thought the Closing the Gap 'pillars' (Priority Reforms) were confused.
- Some said it stopped at the state border. It did not capture regional views or make each region accountable for its main issues.
- Some thought the sectors being separate was an issue in the way Closing the Gap was set out. It did not show how the SEOs are connected.
- One thought the Closing the Gap framework was not useful.

We also heard from some that Closing the Gap used deficit lenses and language.

## Responsibility across and within departments can be unclear

Some Aboriginal and Torres Strait Islander organisations said:

- it is not clear which agencies are accountable for and take actions under Closing the Gap
- senior people in departments were not driving down decisions about actions under Closing the Gap.

A government agency noted that:

- more clarity is needed about what a 'lead' agency on Closing the Gap does and is accountable for
- there needs to be ways for senior executives to understand and engage with the actions in their Implementation Plans.

We heard in one jurisdiction that Joint Council meetings allowed peak groups to speak at the table with ministers and get a response.

We also heard that the meetings to date have not been forums for sharing decision-making. They have been more about government:

- giving updates
- seeking approvals.

We heard it is important that different parts of government work together. This came from people in both:

- Aboriginal and Torres Strait Islander organisations
- government agencies.

They said there was not much coordination across related areas, for example:

- alcohol and other drugs
- health
- mental health.

On funding programs, we heard that agencies should look more at the links between sectors, such as:

- housing
- employment
- health.

They said separate funding meant missing ways to benefit other areas. For example, separate funding goes to childcare and to language programs in the same place. Instead, they could have explored language programs in childcare.

## **Implementation has not moved beyond ‘business as usual’**

The main concern about the National Agreement is that implementation has not moved beyond ‘business as usual’.

We heard that government progress was slow. Some said the National Agreement has not led to actions that will bring about change. This came from people in:

- Aboriginal and Torres Strait Islander organisations
- one non-Indigenous NGO.

Of the responses from Aboriginal and Torres Strait Islander organisations:

- some felt they needed to always ask government to do its duties under the National Agreement
- one thought the National Agreement has had no positive effect on service delivery in the community.

Some peak bodies noted that Implementation Plans so far have not had many new actions.

One ACCO found the Implementation Plans offered nothing that would help ACCOs to grow.

A key concern was that Aboriginal and Torres Strait Islander organisations did not have time to help create or respond to government Implementation Plans in a useful way.

Some organisations did not give feedback on the plans because they looked to be already decided.

Some government parties noted that:

- the first Implementation Plans were rushed and not as useful as they could be
- they intend to give more detail in the next ones, with clearer actions and delivery timeframes.

We also heard that one jurisdiction has made a framework to assess if the policy initiatives they propose align with the Priority Reforms.

One Aboriginal and Torres Strait Islander organisation noted that decision-making is a slow process. It needs time:

- to share information
- for the community to discuss and respond.

Some Aboriginal and Torres Strait Islander organisations said they have turned down consultation requests. The requests did not allow enough time to talk about the issues with their communities.

An Aboriginal local government council shared that governments do not talk to 'grass roots' communities.

## **There is a busy policy landscape which can create confusion about the role of the National Agreement**

Some organisations raised concerns about a busy policy landscape. This means there are already many related:

- policies
- agreements
- decision-making structures.

It is not always clear how these fit with:

- the National Agreement
- the Priority Reforms
- our review.

Of note, it is not clear how the National Agreement fits with:

- constitutional recognition and the Voice to Parliament
- Treaty processes (especially in Victoria and Queensland where they are further along)
- local decision-making initiatives (including in the NT and NSW)
- 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 (clause 28).

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

Some Aboriginal and Torres Strait Islander organisations raised these points:

- Some governments made small changes to the 'business as usual' approach to relationships and engaging with them.
- Engagement and shared decision-making worked where the Aboriginal and Torres Strait Islander party or parties pushed governments to 'come to the table'. This changed the top-down, government-led approach.

Some said some state agencies appear to be more willing than others to:

- partner
- trial new approaches
- engage in shared decision-making.

This looks to be especially true when there is:

- supporting laws
- accepted Native Title
- a crisis like the COVID-19 pandemic.

These are times when government has reason to share decision-making and shift power.

### ... but commitment to the partnership elements and shared decision-making varies greatly in practice

We heard that government has not changed the way it works with communities and ACCOs.

Of the organisations we engaged:

- one said that government was still trying to understand what shared decision-making means
- one said there is a risk that governments may have differing definitions and goals
- some said that governments still do not want to give away control or shift power, making it very hard to do:
  - shared decision-making
  - community control.

Despite some steps forward, we were told that progress is gradual. It is not where it needs to be.

Different levels of government are making different efforts to engage. This can also be true for different agencies in the same jurisdiction. We heard this from:

- Aboriginal and Torres Strait Islander organisations
- one non-Indigenous organisation.

Governments state they commit to co-designing programs. But some Aboriginal and Torres Strait Islander organisations felt, in reality, co-design offers were:

- tokenistic
- non-existent.

Some said that government wanted to engage in co-design but started every meeting with:

- talking about how much they are likely to spend
- saying there was a cap on funding despite what the need was in the community.

Some said that co-design sometimes started after government assumed the issue and proposed an approach. Government gave little time for organisations to engage before deciding.

One said there were no Aboriginal or Torres Strait Islander views shown in:

- the National Plan to End Violence Against Women and Children
- the causes of violence recognised by the Plan.

Some said that when there was a political agenda (like law and order), government forgot duties under Priority Reform One.

A representative body was worried that there were no guidelines for engaging Aboriginal communities. Renewable leases on land would be rushed through without Aboriginal and Torres Strait Islander people being part of the decision.

One peak body said that government:

- keeps decision-making authority on policy
- engages too late or not enough with Aboriginal and Torres Strait Islander people.

Some Aboriginal and Torres Strait Islander organisations also said governments do not:

- give time for proper community engagement on policies, Implementation Plans and strategies
- put time into relationships with Aboriginal and Torres Strait Islander communities.

Some stated that:

- efforts from government and NGOs to partner with ACCOs were often 'box ticking'
- some relationships were 'not true partnerships'
- ACCOs were not allowed to be part of decision-making around policy or funding.

Some said that they would want to bring in new, culturally appropriate decision-making models. Government agencies said to them that these did not fit with their processes, rules or risk profile.

They felt they had to fit 'round pegs into square holes' with government – not true partnership.

Many ACCOs said that money from funding programs is given with rules on how to spend it.

There was also concern that since the National Agreement started, some government actions seemed to go against the intent of Priority Reform One. It was not clear if or how they would be held to account for these actions.

For example, 2 jurisdictions brought in justice reforms that increased custodial mandates (like reversal of presumptions for bail). After this, more children and young people were put in jail or police lockup.

Both of those jurisdictions signed the Justice Policy Partnership. The partnership aims to reduce the rate of Aboriginal and Torres Strait Islander people in the criminal justice system.

## Partnerships do not always reflect shared expectations

There were concerns about resourcing. Some Aboriginal and Torres Strait Islander organisations said Aboriginal and Torres Strait Islander people want to set the priorities and give input. But they need funding for this to happen.

One had concerns that shared decision-making could not happen if government 'still holds all the purse strings'. They suggested shared investment to help shared decision-making.

Some raised that when the government partner funds the other partner to operate, there is:

- a power imbalance
- conflict in the relationship.

Some stated that governments are not realistic about what it takes to provide services across a region. They often choose partners that have less culturally informed programs but cheaper proposals.

We also heard:

- government cherry picks who they work with
- only the hard programs are handed over to ACCOs
- prospective partners ask for a letter of support and then disappear.

Governments also appear to select the issues they consult on and when they consult. This leads to partnering on already-decided solutions. They should reach joint agreement with the community about:

- what their priorities actually are
- how they might address priorities.

Parties to a partnership can have different expectations. For example, we heard that:

- mainstream health service providers want Aboriginal community-controlled health services (ACCHS) to do the 'hard yakka' of talking with communities, but give nothing back
- an ACCHS said they were simply solving problems for the hospital rather than working in partnership.

One Aboriginal and Torres Strait Islander organisation is feeling this as a gap between policy decision-making and implementation. Government wants 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 said that some voices:

- are not being heard
- need stronger representation through peak groups and community organisations.

This relates in particular to:

- people in remote regions who are far away from key decision-makers
- children and young people
- women (often only men have a 'seat at the table')

- Stolen Generations survivors and descendants
- Aboriginal and Torres Strait Islander LGBTQ+ community.

Aboriginal and Torres Strait Islander organisations said there needs to be space to hear voices from:

- grass roots organisations
- unincorporated groups.

Some also told us there is a need for:

- regional representation so regional priorities are heard
- both state and regional bodies for shared decision-making.

Some raised that:

- governments sometimes choose to work with organisations seen as ‘creatures of government’ by the community they claim to represent
- national bodies are sometimes empowered at the expense of regional or state bodies.

Some said their voices are being less heard as governments choose to engage with peak bodies in their jurisdiction.

Peak bodies told us that they risk burnout from the demands related to the National Agreement. And they are not properly funded for these processes.

A smaller Aboriginal and Torres Strait Islander organisation said it can be a big burden to take part in partnerships.

## **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 (clause 42).

### **Funding models do not fit ACCO models and priorities**

When talking about building the community-controlled sector, ACCOs often had the same point. To deliver their services, they need more control over:

- funding
- capacity building.

We heard that:

- government expects ACCOs to fit the way government works, rather than the other way around
- some government agencies go to ACCOs with how it will work already in mind
- it can be very hard if an ACCO does not fit this operating model as they miss out on funds
- the types of programs ACCOs deliver do not always fit into the rules.

The last point really affects ACCOs who spend a lot of time with clients or families with:

- wrap-around services
- trauma-informed services.

There was a view that governments do not know that the types of issues differ for Aboriginal and Torres Strait Islander people.

ACCOs said governments do not understand that they work holistically and with families. Governments are used to supporting individuals. This does not work with Aboriginal and Torres Strait Islander communities. Solutions depend on working with the whole family.

When mainstream services are given to Aboriginal and Torres Strait Islander communities, they may:

- be unfit for purpose
- 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
- family relationships.

But we were also told they do not have resources to do this work.

We also heard that mainstream feminist approaches to domestic and family violence do not account for causes from:

- intergenerational trauma
- disempowerment.

Many Aboriginal and Torres Strait Islander organisations said that the funding they get does not cover the full cost of providing services. For example:

- funding for transport costs to deliver:
  - health services
  - remote service delivery.
- investment in infrastructure and capital works to deliver services well or improve them.

For more stable program and service delivery from ACCOs, several organisations said there needs to be:

- ongoing funding arrangements
- longer terms grants.

We heard examples of:

- very short funding (including 12-month grants) to deliver essential services, such as health services
- government funding coming with conditions, which can make it harder to get 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 it is normal to be a transaction. ACCOs must work to a budget and key performance indicators (KPI), which government chooses. ACCOs cannot then say what communities value most, and make and give useful services that target needs.

Some ACCOs said they spend a lot of time getting contracts right. They teach funders about KPIs that align with Aboriginal and Torres Strait Islander clients' needs. One organisation said government KPIs are '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, they:

- avoid government funding with its duties
- choose grants in a way that avoids too many small grants (these end up costing more to apply for and report on than the funds they get).

We also heard about 'lifting and shifting' a mainstream service to ACCOs. When this service does not meet the needs of Aboriginal and Torres Strait Islander communities the risk shifts to the ACCO.

## **Challenges in building and sustaining the workforce to support strong sectors**

Aboriginal and Torres Strait Islander organisations and ACCOs raised concerns about:

- building their workforces
- retaining staff.

For example, an Aboriginal and Torres Strait Islander organisation said that community members are often the only people who can pass on languages. They should be able to teach languages in schools, even if they have not had formal training.

Members of the Torres Strait meetings raised that Commonwealth and state government services hire local workers. ACCOs then cannot hire them.

ACCOs said they spend a lot of money and time to build up Aboriginal and Torres Strait Islander staff. But it is hard to retain them when government pay and benefits are better.

Several Aboriginal and Torres Strait Islander organisations told us that government or non-local workers get:

- free or cheaper housing
- better benefits than local workers.

Sometimes funding is for positions that do not match the needs of the organisation. For example, an Aboriginal health and wrap-around service provider needed a qualified counsellor. The funding they got was for an admin position.

Some ACCOs said that staff often leave because of burnout, including from:

- too much work
- lack of support
- professional development being hard to access
- working with clients with trauma, which can place more pressure on staff.

One Aboriginal and Torres Strait Islander organisation said there was a 'workforce crisis'. Medical procedures were cancelled because of the lack of doctors and nurses.

We heard:

- in one jurisdiction there was a shortage of health care professionals in remote areas
- in other jurisdictions, ACCOs cannot compete on pay and lose 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 has moved from mainstream organisations to ACCOs
- the National Agreement has allowed some peaks to grow with more funding.

Some are frustrated that a lot of funding goes to mainstream rather than Aboriginal and Torres Strait Islander service providers.

Of the Aboriginal and Torres Strait Islander service providers:

- some said some jurisdictions assume that ACCOs can take on and deliver government services well and straight away, so governments are starting to share risk and service delivery
- some others said that governments still did not want to transfer control to ACCOs.

Some told us that government in one jurisdiction was trying to procure more ACCOs for certain services and helping to build ACCO capacity. One service said that the timing of this was bad for smaller ACCOs. They would have had to split their time and low funds between:

- applying for assistance to build capacity
- writing tenders to provide services.

Larger, more setup ACCOs could simply do the latter.

We heard that because of government funding, ACCOs pay high costs. And there is not much support nor information to help small ACCOs and start-ups to access and go through funding processes. This takes from the resources they use to deliver services to the community.

One Aboriginal medical service:

- said there was a lack of feedback from government on failed grant applications
- questioned whether grant processes really considered Aboriginal service providers.

One government agency said that ACCOs face a big burden with reporting. This burden is bigger than the that faced by non-Indigenous mainstream providers.

An ACCO told us the reporting burden is high for the small funding they get. They needed to do more work to justify funding compared to mainstream service providers.

One ACCO told us they do not often see when to apply for funding. The funding often appears with short notice and lots of reporting.

## **Competition for funding and resources can hurt collaboration**

Some ACCOs said they want to work with other ACCOs. We heard about some groups or partnerships of ACCOs that were very successful.

Other Aboriginal and Torres Strait Islander organisations said they had to compete with each other for ACCO-specific funding. This reduced the ways ACCOs could work with each other.

There were concerns that local ACCOs must compete for funding with ACCOs from outside the area, despite having stronger:

- community trust
- language capability.

We heard that people in remote areas would rather local ACCOs be funded than interstate fly-in-fly-out services.

In some sectors or places, government itself acts as a competitor. For example:

- government organisations competed with ACCOs for funding and resources, such as staff and housing, to run a dental clinic
- a government department took over delivery of a program that an Aboriginal and Torres Strait Islander organisation had made and trialled.

We heard concerns that:

- NGOs are not providing services with the same cultural awareness and safety
- mainstream service providers have been able to grow and have more money while delivering programs that do not appear to get better community outcomes.

We heard the child protection sector as one example sector of mainstream providers who lack cultural capability.

One Aboriginal and Torres Strait Islander organisation raised the need for a policy where NGOs must involve ACCOs in the services they deliver to ensure cultural safety.

Another said that Priority Reform Two must not take away from mainstream service providers having to deliver better and culturally safe services for Aboriginal and Torres Strait Islander people.

One noted that the government funds large NGOs to engage with ACCOs, rather than the other way around. Another said that everything goes to the local NGO, even though ACCOs should be the priority.

One ACCO said some NGOs do not want to step aside to allow ACCOs to deliver culturally appropriate services. Their focus is on money to continue their work, which treats Aboriginal people as 'commodities'.

## **Monitoring and evaluation must support effective programs**

We heard a concern that government funding decisions lack proper scrutiny and evaluation. This makes it hard to find good programs and build evidence to scale them.

Some Aboriginal and Torres Strait Islander organisations said they wanted to engage an external body to evaluate certain programs. But could not get government funding to support this.

We also heard that the 'evidence hurdle' for ACCOs to get program funding can be higher than for mainstream services.

## **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 (clause 58).

### **The transformation of government is challenging**

Some organisations said that governments still need to work out what to transform and how to do it. We heard that some jurisdictions are better at this than others. For example, one jurisdiction is using their Public Service Commission to lead government organisation transformation.

We heard:

- there is ignorance in government on how the National Agreement affects organisations' duties under Priority Reform Three beyond agencies or teams working on Aboriginal and Torres Strait Islander matters
- from governments in 2 jurisdictions that there is progress being made on how cabinet and budget processes can include Closing the Gap.

We heard awareness of the National Agreement and Priority Reform Three across the public sector is variable. This was told to us by:

- several Aboriginal and Torres Strait Islander organisations
- government representatives.

They said people in the leading roles of the public sector are often more aware. Awareness and change often varies or does not exist in:

- regional offices
- service delivery.

We heard that even where there were positive changes to laws:

- service level behaviours can be slow to adjust
- people might misread the laws – examples from some Aboriginal and Torres Strait Islander organisations were:
  - child protection services
  - policing.

Many organisations told us that changes were made only when driven by certain people in and outside of government. There is risk with the transformation process relying on people.

Some also said there was a lack of change because certain people stay in government jobs.

Some told of the need for structures in agencies and the public service to rely less on certain people for change.

We heard politicians and public servants have a vital role in transforming government organisations. This came from both:

- government agencies
- other organisations.

One ACCO said that driving change should not be left to Aboriginal and Torres Strait Islander people within government.

Some Aboriginal and Torres Strait Islander organisations said that public servants' work contracts should reflect their duties under the National Agreement. We heard that this is the case in at least one jurisdiction.

## **People say institutional racism is a continuing problem**

A range of organisations said government agencies need to address institutional and systemic racism.

One peak ACCO said that it is hard to work with government agencies on Priority Reform Three when public servants were not willing to admit there was racism or talk about it.

Another organisation said one case of racism was raised at a government agency. It was looked into, but this seemed to be the agency showing they were doing something. There were no useful follow-up actions taken.

Some areas of government service delivery were singled out.

- Aboriginal and Torres Strait Islander people and organisations in some jurisdictions spoke of racism by police. They mentioned Aboriginal and Torres Strait Islander children. Government representatives in one jurisdiction singled out the justice sector for its slow progress.
- One organisation said racism is an ongoing problem in health. Racism stops Aboriginal and Torres Strait Islander people accessing and getting quality care in mainstream services. It also hinders those services from hiring and keeping Aboriginal and Torres Strait Islander staff.
- Other Aboriginal and Torres Strait Islander organisations said racism is in schools, and efforts to address the problem do not work.

Many government agencies are rolling out training in:

- cultural awareness
- capability
- competence
- safety.

We heard that this training often does not work and on its own it will not fix racism.

One organisation said 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 said, unlike government, they decide on staff to appropriately service people where avoidance relationships are involved
- other organisations said that mainstream services do not know that connection to Country and kin are vital to:
  - healing from trauma
  - mental health.

We were told that some governments do not realise how Aboriginal and Torres Strait Islander culture varies from place to place. This affects what governments do. It also affects who they fund. As noted earlier, an ACCO from one area may not be able to deliver services in another area.

People said culture was important in:

- land management
- corrections
- education
- domestic violence
- health (including mental health).

People spoke with us about:

- the value of culture
- the flow-on effects of valuing culture.

For example, we were told that:

- meeting children's cultural needs can improve school turnout and success
- having Aboriginal and Torres Strait Islander views on causes could improve approaches to domestic and family violence
- culturally informed maternity care can improve health for women and babies.

We often heard culture was important to child protection. Government models of child protection are based on western views. These do not line up with Aboriginal and Torres Strait Islander views and approaches in some ways, especially with the role of the whole family.

One ACCO told us that they had success with a decision-making model that was:

- culturally appropriate
- family led.

But the government department said that it did not fit into their process.

Another ACCO told us the best results have come from working with the whole family. After decades working in child protection they are still told not to forget that the child is the (sole) focus.

One ACCO was positive about their child protection agency's decision to hire an in-house cultural advisor.

## **Government approaches to engagement are often seen as tokenistic and underdone**

Some organisations noted some government engagement had gotten better. Consultation happened earlier than it used to.

More organisations noted the different ways government engagement is lacking. Some organisations said when engagement does happen it is often unclear:

- how they used information from Aboriginal and Torres Strait Islander people
- whether it had any effect on government decisions.

With engagement, the most common issue raised was that governments do not allow proper time to engage on policies. This is a problem when Aboriginal and Torres Strait Islander organisations want to and must engage with their communities (we mention this above in Priority Reform One).

## **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 (clause 69).

### **Data are important, but there are gaps and quality issues**

Many people we spoke to said data are important for:

- service planning
- advocating for funding
- working out funding for regions.

But sometimes the data and information that people valued for assessing need and service delivery were not collected.

For example, some organisations said there was not much:

- reporting on spending
- service mapping in their location or policy area
- program evaluation, especially independent evaluation.

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

- government data were sometimes wrong – for example, because groups of people or communities were missed
- data were not broken down enough by:
  - location
  - type of service
  - groups of people with different factors.
- data on the same topic held by different organisations or systems were not added up or collected in a uniform way
- data across different topics were not linked, which made it difficult to get the whole picture
- markers were thought up or chosen in a way that:
  - did not suit the community
  - did not align with community values.

We also heard that the data collected were not always useful to Aboriginal and Torres Strait Islander organisations, communities and people.

Two Aboriginal and Torres Strait Islander organisations said that governments should find out:

- what data communities and Aboriginal and Torres Strait Islander organisations need
- how to give out the data organisations say they need.

We heard examples where Aboriginal and Torres Strait Islander organisations could shape the data government collected. For example, by working with government to set KPIs for programs.

We heard data were:

- poor quality
- sometimes not put in context or turned into useful messages.

For example, one Aboriginal and Torres Strait Islander organisation said data should be in a regional context. Similar numbers for different regions could mean very different things.

## **Some people can access data and information, but many cannot**

Some organisations said they could get the data they needed by:

- asking government for it
- doing their own data projects.

Several people raised data-sharing initiatives with government that made (or intended to make) data easier to access.

Many others said that getting access to government data was difficult. Police, justice and health data were raised as hard to access.

Some Aboriginal and Torres Strait Islander organisations said that knowing someone with access was often key to getting data.

Reasons for why governments did not share data included that:

- governments did not trust community organisations with data
- government officials avoided risk.

## **Indigenous data sovereignty is not always recognised**

In general, organisations thought Indigenous data sovereignty lacked recognition.

They noted that data was often taken from Aboriginal and Torres Strait Islander people, with:

- no feedback or way to get the data for their own analysis
- no improvement in community services.

Some saw that Aboriginal and Torres Strait Islander people and organisations were not leading data and research projects about them. Sometimes they were not even involved with them. They could not make sure the projects would benefit them.

One said that primary health networks were trying to access ACCOs' data. But ACCOs did not want to give the data.

Another said that it often sent data to its peak body but did not know how it was used.

Some said they did not:

- have the ability or resourcing to do data activities (like collecting and linking)
- feel supported to grow their capability.

Those who did collect their own data said that:

- they often did not match official data
- governments and other mainstream organisations sometimes did not believe their data.

One organisation said that the type of data that Traditional Owners wanted to show did not line up with governments' ideas about what was 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. Reasons varied across jurisdictions and included:

- changes in staff at the relevant government agency
- the need to first finish other related work.

One Aboriginal and Torres Strait Islander organisation said that choosing the place for the data project in their jurisdiction was not community driven.

## **Socioeconomic outcomes**

Our first phase of engagement (up to the end of 2022) was mainly on knowing progress against the Priority Reforms. This was in line with our proposed approach for the review (Review paper 2: Proposed approach and invitation to engage with the review).

While they were not the focus, many people still shared their views on the National Agreement's SEOs.

### **More holistic policy responses are needed to progress the SEOs**

We heard that policies often do not include the relationships between the SEOs in their outcomes. For example, many found that better housing outcomes would also improve:

- mental and physical wellbeing
- education
- employment
- family violence.

Others noted there was not enough said about how mental health and housing play a role in people entering the criminal justice system.

Several also raised that the risk of family violence can increase with:

- insecure housing
- alcohol and other drug use
- undiagnosed brain injuries
- other mental health issues.

People said separate and varying policy responses both within and across jurisdictions slowed progress against the SEOs.

One noted the lack of a united approach to family violence between the relevant Commonwealth departments and agencies.

An organisation said the Commonwealth and state jurisdiction have not done a joint strategy for improving Aboriginal employment outcomes.

Several raised the new justice laws that increase custodial mandates (discussed under Priority Reform One). They saw them as a stark example of jurisdictions putting in place new policies that go against their commitments to the SEOs. In this case:

- the adult criminal justice outcome (SEO 10)
- the youth criminal justice outcome (SEO 11).

People also said governments do not focus enough of their effort on:

- prevention
- early intervention.

For example, in the criminal justice system there was not enough effort on:

- youth diversionary programs
- support services after release which help to stop people going back into the system.

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 about the SEOs was that some targets do not include the effort that will get better outcomes.

For example, some Aboriginal and Torres Strait Islander organisations said that as well as a target of more students finishing Year 12, measures should also cover:

- education quality
- teaching standards
- the importance of an Aboriginal and Torres Strait Islander curriculum (including classes in language).

The SEOs' goals and their targets sometimes do not match. We heard that progress towards increasing Native Title (Target 15a) does not always lead to keeping an economic relationship with the land (one aspect of SEO 15).

This is because groups cannot use land granted under a Native Title decision to secure money to develop the land, including:

- Prescribed Body Corporates (PBC)
- Native Title groups.

Native Title settlements can also hurt social and emotional wellbeing with trauma during the process.

These were some other themes around SEOs and their targets:

- The current set of SEOs leave out or do not support important related areas. These include:
  - adult education and literacy
  - disability
  - alcohol and other drugs
  - homelessness.
- National level targets can become or be seen as not relevant in certain places. Some said that the targets should be set at a regional level to reflect and drive effort towards local priorities. For example:
  - 'Target 15a: By 2030, a 15% increase in Australia's landmass subject to Aboriginal and Torres Strait Islander people's legal rights or interests', was seen as low value in the Kimberley where more than 90% of its land is already under native title
  - one person said that meeting a target to reduce family violence to zero was not possible.
- One person said to make interim targets. These could be for the 2 criminal justice outcomes (SEOs 11 and 12) that are no more than 18 months apart. This would help for knowing progress towards the 2031 outcome.

## The data do not tell the whole story

For some, the SEO data may not give the right picture of some outcomes. These were some areas raised:

- Issues with how data are collected. For example:
  - educational attendance data being very different from the attendance rates seen by teachers
  - incorrect recording of home addresses showing homelessness in reporting of overcrowding.
- Issues with the scope or how representative the measures are. For example:
  - the family violence measure (SEO 13) not including sexual or other forms of violence
  - youth justice data (SEO 11) not capturing 'paper arrests', especially in regional areas.
- Issues with summing up and matching data from different agencies or systems. This was raised mainly around:

- health data
- family violence data.

Some people also raised that they could not get data for some targets such as 'Target 17: By 2026, Aboriginal and Torres Strait Islander people have equal levels of digital inclusion'. Also, outdated data in areas such as family violence does not tell 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) (ATSILS)
Aboriginal Drug & Alcohol Council (ADAC)
Aboriginal Family Legal Services WA (AFLS)
Aboriginal Family Support Services (AFSS)
Aboriginal Health Council of South Australia (AHCSA)
Aboriginal Housing Victoria (AHV)
Aboriginal Land Council of Tasmania (ALCT)
Aboriginal Medical Service (AMS Redfern)
Aboriginal Peak Organisations Northern Territory (APONT)
ACT Government PWG rep
Australian Education Research Organisation (AERO)
Australian Human Rights Commission (AHRC) – Office of the Aboriginal and Torres Strait Islander Social Justice Commissioner
Australian Local Government Association (ALGA) PWG rep
Binarri-Binyja Yarrawoo Aboriginal Corporation
BlaQ Aboriginal Corporation
Broome Regional Aboriginal Medical Service (BRAMS)
Bundiyarra Aboriginal Community Aboriginal Corporation
BushMob Aboriginal Corporation
Cape York/Gulf Remote Area Aboriginal & Torres Strait Islander Child Care - Advisory Association Inc (RAATSICC)
Central Australian Aboriginal Congress (CAAC)
Coalition of Peaks

Organisation/Body name
Coota Girls Aboriginal Corporation
Danila Dilba Health Service (DDHS)
Deadly Connections Community & Justice Services
Federation of Victorian Traditional Owners Corporations (FVTOC)
First Peoples' Assembly of Victoria
Garnduwa Amboorny Wirnan Aboriginal Corporation
Gelganyem Limited
Geraldton Regional Aboriginal Medical Services (GRAMS)
Greater Western Aboriginal Health Service (GWAHS)
Gumatj Corporation Ltd
Indigenous Education Consultative Meeting (IECM)
Institute of Urban Indigenous Health (IUIH)
Kimberley Land Council (KLC)
Kinchela Boys Home Aboriginal Corporation (KBHC)
Koorie Youth Council (KYC)
Kurbingui Youth and Family Development
Larrakia Nation
Laynhapuy Homelands Aboriginal Corporation
Lena Passi Women's Shelter Association
Literacy For Life Foundation (LFLF)
Miwatj Health Aboriginal Corporation
Mura Kosker Sorority
National Aboriginal and Torres Strait Islander Legal Service (NATSILS)
National Indigenous Australians Agency (NIAA)
Neeraj Gill and Maree Toombs
Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara Women's Council (NPYWC)
NIAA Arnhem
North Australian Aboriginal Justice Agency (NAAJA)
North Qld Land Council (NQLC)
NSW Aboriginal Education Consultative Group (AECG)
NSW Aboriginal Land Council (NSWALC)
NSW Child, Family and Community Peak Aboriginal Corporation (AbSec)
NSW Government PWG rep
NSW Police Force
NSW Treasury - First Nations Expenditure & Outcome Policy & Budget Group & First Nations Economic Wellbeing Branch
NT Children's Commissioner
NT Government PWG rep
NT Government Reform Management Office
NT Justice Policy Partnership
Nunukuwarrin Yunti of SA Inc
Nyamba Buru Yawuru Limited (NBY)

Organisation/Body name
Nyoongar Outreach Services
Office of the National Data Commissioner (ONDC)
PWC Indigenous Consulting
Queensland Aboriginal and Islander Health Council (QAIHC)
Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP)
Queensland Family and Child Commission (QFCC)
Queensland Government PWG rep
Queensland Indigenous Family Violence Legal Service (QIFVLS)
Sisters Inside Inc
South Australian Government PWG rep
South East Tasmanian Aboriginal Corporation (SETAC)
South West Aboriginal Land and Sea Council (SWALSC)
Sydney Region Aboriginal Corporation (SRAC)
Tasmanian Aboriginal Centre (TAC)
Tasmanian Aboriginal Legal Service (TALS)
Tasmanian Government Department of Premier and Cabinet
Tasmanian Government PWG rep
Tauondi Aboriginal College
Telethon Kids Institute
Torres Shire Council
Torres Strait Regional Authority (TSRA)
Victorian Aboriginal Heritage Council
Victorian Aboriginal Community Controlled Health Organisation (VACCHO)
Victorian Government PWG rep
Wellington Aboriginal Corporation Health Service (WACHS)
West Kimberley Futures Empowered Communities (WKFEC)
Western Australian Government PWG rep
Winnunga Nimmityjah Aboriginal Health and Community Services (WNAHCS)
Wunan Foundation
Wunan Health
Wungening Aboriginal Corporation
Yamatji Marlpa Aboriginal Corporation
Yarrabah Aboriginal Shire Council (YASC)
Yirrkala School
Yorganop Association
Yorgum Healing Services
Yothu Yindi Foundation (YYF)