



9 August 2024

Yoorrook Justice Commission  
Locked Bag 7777  
COLLINGWOOD VIC 3066  
Via email: [enquiries@yoorrook.org.au](mailto:enquiries@yoorrook.org.au)

Dear Commissioners

We write to you as the Secretariat of Ngaweeyan Maar-oo, the Victorian Government's implementation partner and shared-decision making body under the National Agreement on Closing the Gap (National Agreement).

We represent the interests and the expertise of the Aboriginal community-controlled sector and are committed to Closing the Gap through self-determined solutions that promote culture, connection and Community and supporting all Aboriginal people to be proud, strong and thriving.

Please find enclosed a written submission from our Secretariat on your Political Life Inquiry. Our submission makes several recommendations for the Commission's consideration relating to the National Agreement on Closing the Gap.

We wish to thank you again for this opportunity and we look forward to your final report.

Yours sincerely



**Lisa Briggs**  
Executive Director  
Ngaweeyan Maar-oo  
09/08/2024

Encl: Ngaweeyan Maar-oo written submission to Yoorrook Justice Commission



**NGAWEEDAN  
MAAR-OO**  
Closing The Gap Partnership Forum

# Yoorrook Justice Commission Written Submission

Ngaweeyan Maar-oo  
August 2024

Yoorrook Justice Commission – Inquiry into Political Life



To receive this publication in an accessible format, [email the Ngaweeyan Maar-oo Secretariat <secretariat@ngaweeyanmaar-oo.org.au>](mailto:secretariat@ngaweeyanmaar-oo.org.au).

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In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people.



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## Acknowledgment

Ngaweeyan Maar-oo acknowledges Traditional Owners of the Country on which we live, work and play.

We wish to pay our respects to Aboriginal and Torres Strait Islander cultures and to Elders past and present.

We also acknowledge the continuing connection of Aboriginal and Torres Strait Islander people to Country, Community and culture.

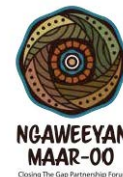
### About Ngaweeyan Maar-oo

Ngaweeyan Maar-oo, meaning “Voice of and from the people” in Gunditjmara dialect, is the Victorian Government’s implementation partner and shared-decision making body under the National Agreement on Closing the Gap (National Agreement).

We are also a member of the Coalition of Peaks, the recognised lead partner with the Commonwealth Government, comprised of over 80 Aboriginal and Torres Strait Islander community-controlled peak and member organisations across Australia, that represent over 800 individual organisations.

Our membership is made up of 13 Aboriginal Community-Controlled Organisation (ACCO) representatives and 9 Aboriginal Governance Forum delegates. The membership has extensive expertise, cultural knowledge and experience informed by their longstanding commitment to the Aboriginal community.

Many members of Ngaweeyan Maar-oo have provided submissions and testimony to the Yoorrook Justice Commission. This submission does not replace or supersede these submissions or testimonies.



## Executive summary

As the Victorian Government's recognised implementation and shared-decision making partner for the National Agreement on Closing the Gap (National Agreement), Ngaweeyan Maar-oo has a whole of system view of how government policies impact the political participation of Aboriginal and Torres Strait Islander people in Victoria. Aboriginal Community Controlled Organisations (ACCOs) are grounded in political activism and advocacy and see the ongoing and intergenerational impacts of historical and current government policies every day when providing critical services to Community. Despite a shift from assimilation policy in the 1970s, the systems, structures and institutions set up to implement it remain and continue to systemically discriminate against Aboriginal people.

This submission provides a critical analysis of barriers to political participation for Aboriginal and Torres Strait Islander people in Victoria and presents targeted recommendations to address these challenges. This submission draws on extensive evidence to examine the barriers to political participation and how they contribute to the underrepresentation and disenfranchisement of Aboriginal and Torres Strait Islander people.

### Closing the Gap and political participation

Launched in 2008, the Closing the Gap campaign aims to reduce the disparities in health, education, and employment between Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander Australians. In 2018, the Coalition of Australian Governments (COAG) agreed to establish the Joint Council for Closing the Gap, strengthening the commitments of the formal Partnership on Closing the Gap between Aboriginal and Torres Strait Islander peoples and the Australian Government.

The National Agreement was co-designed by the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks) and the Australian government and aims to enhance government collaboration with Aboriginal people. The signing of the National Agreement on 27 July 2020 by all Australian governments and the Coalition of Peaks further strengthened the commitment to a new way of working, to achieve what previous agreements could not.

The National Agreement is structured around four priority reform areas and 17 socio-economic outcome areas, with clear commitments to develop implementation plans, supported by a range of accountability and oversight measures for shared monitoring and implementation tracking.

The implementation of the National Agreement and achievement of the desired systemic reforms and outcomes is critical to improving the lives of all Aboriginal and Torres Strait Islander people. The priority reforms in particular drive the necessary structural and systemic change to government policies, processes and institutions which undermine and hinder the political participation of Aboriginal and Torres Strait Islander people, both collectively and individually. Further, the achievement of the socio-economic outcomes is necessary to address intersectional barriers that further exclude Aboriginal and Torres Strait Islander people from voting.

### Recommended actions to support Aboriginal and Torres Strait Islander political participation in Victoria:

As part of this submission, Ngaweeyan Maar-oo makes the following recommendations for consideration by the Commission.

1. The Victorian Government needs to embed strong partnerships and shared decision-making on local and statewide issues
2. Aboriginal community-control must be supported and protected through sustained and dedicated funding to enable them to work with Community
3. Government organisations need to do more to address systemic, procedural and structural barriers to political participation
4. Aboriginal and Torres Strait Islander people need to be supported to access their data to support their political participation and measure progress



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5. Social and economic inequality must be recognised as a barrier to political participation and be addressed
6. There needs to be greater protection for Aboriginal people who experience racism throughout the course of politics.

Many of these recommendations are consistent with existing actions under the National Agreement. However, as reported in the Productivity Commission's latest data dashboard,<sup>1</sup> Victoria is underperforming against several socio-economic targets, and in some cases performing worse than at the start of the National Agreement. Work to implement the priority reforms is also lacking, with very little progress made consistently across government.

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<sup>1</sup> Productivity Commission, 'Closing the Gap Information Repository'. Retrieved 9 August 2024 at <https://www.pc.gov.au/closing-the-gap-data>.



## Introduction

### Political participation is a fundamental human right

Political participation for Aboriginal and Torres Strait Islander people encompasses several key areas:

- **Voting** in federal, state, and local elections to influence representation and policy
- **Self-representation and self-governance** through the establishment and participation in community-controlled organisations and governance structures, enabling self-determination and management of their own affairs<sup>2</sup>
- Running for and holding positions in **mainstream political parties and public offices**, ensuring their perspectives are included in broader political discourse and decision-making processes
- Engaging in **advocacy and 'non-sanctioned' participation**, which involves activism and other forms of political engagement outside formal institutions to influence public opinion, policy, and legislation through protests, campaigns, and other means of political expression.<sup>3</sup>

By voting in elections, citizens can determine how a nation is governed, and hold governing bodies accountable for their actions. Political participation is a crucial element of democracies, enabling all citizens to be included in decisions about the direction of their country.<sup>4</sup> It is also a key element of community control, whereby exercising initiative in taking action, contributes to the collective effort to attain objectives set by the community.<sup>5</sup>

Political participation, either through political processes, governance or advocacy and activism all have the potential to change power structures and influence decision-making. The historical exclusion of Aboriginal and Torres Strait Islander people from political participation and decision making has driven and entrenched systemic and intergenerational inequality that has resulted in the gap in life outcomes for Aboriginal and Torres Strait Islander people.

Article 5 of the *United Nations Declaration on the Rights of Aboriginal and Torres Strait Islander Peoples* states that “Aboriginal and Torres Strait Islander peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.” The National Agreement provides a framework to realise this right, and its implementation is critical to ensure that the gap in political participation is closed, and to support the transition to a Treaty era.

Over the past two decades there has been a modest but positive increase in Aboriginal representation in Australian legislative institutions. This is crucial as it reflects a growing acknowledgment of the need for diverse representation in decision-making bodies. Aboriginal and Torres Strait Islander candidates were put forward 31 times at the federal level and 112 times at state and territory elections.<sup>6</sup>

Democratic quality is closely linked to the representation of minorities, including Aboriginal people, in politics. Effective participation of Aboriginal people in political processes is essential for enhancing the quality of democracy. When Aboriginal people are represented in political institutions, it not only ensures that their interests are heard, and issues are addressed but also strengthens the inclusiveness and legitimacy of the democratic system. Such representation allows for more equitable decision-making and policy outcomes that reflect the needs and aspirations of all segments of society.

<sup>2</sup> Australian Institute of Health and Welfare. (2022). *Aboriginal and Torres Strait Islander self-governance for mental health and suicide prevention* (IMH 8). Aboriginal and Torres Strait Islander Mental Health and Suicide Prevention Clearinghouse, Australian Government.

<sup>3</sup> Sambai Usek, V., & Dunlop, L. (2023). Aboriginal and Torres Strait Islander youth activism: the role of education in creating capabilities. *Journal of Youth Studies*, 1–18. <https://doi.org/10.1080/13676261.2023.2261865>

<sup>4</sup> Evans, M., & McDonnell, D. (2022). More partisans than parachutes, more successful than not: Aboriginal and Torres Strait Islander candidates of the major Australian parties. *Australian Journal of Political Science*. <https://doi.org/10.1080/10361146.2022.2065968>

<sup>5</sup> National Aboriginal and Islander Health Organisation. Nd. *The NAIHO experience: Evolving to the NAIHO congress*.

<sup>6</sup> Evans, M., & McDonnell, D. (2022). More partisans than parachutes, more successful than not: Aboriginal and Torres Strait Islander candidates of the major Australian parties. *Australian Journal of Political Science*. <https://doi.org/10.1080/10361146.2022.2065968>



# Overview of Aboriginal and Torres Strait Islander political participation

Aboriginal and Torres Strait Islander peoples have been the custodians of the land for over 60,000 years.

Sovereignty was never ceded; it always was and always will be Aboriginal land.

- 1770** ● Captain Cook proclaims sovereignty over Australia on behalf of Great Britain.
- 1788** ● First British Colony settlement proclaimed in New South Wales.
- 1857** ● Parliament changed the Constitution to allow all men over 21-years old to vote for the Victorian Legislative Assembly. This included Aboriginal and Torres Strait Islander men, though voter suppression prevented most from using this right.
- 1869** ● The *Aboriginal Protection Act* was passed making Victoria the first colony to create an Act allowing the government to govern the lives of Aboriginal people.
- 1901** ● Commonwealth Constitution came into effect, giving the newly created Commonwealth Parliament the authority to pass federal voting laws. Section 41 prohibited the Commonwealth Parliament from denying federal voting rights to any individual who, at the time of the Commonwealth Parliament's first law on federal voting (passed the following year), was entitled to vote in a state election.
- 1902** ● The Commonwealth Parliament passed the *Commonwealth Franchise Act 1902* granting men and women in all states the right to vote in federal elections. However, the Act specifically denied federal voting rights to every 'aboriginal native' of Australia, Asia, Africa, or the Islands of the Pacific (except New Zealand) who, at the time of the Act, did not already have the right to vote in state elections.
- 1915** ● Queensland introduced compulsory voting. This was later introduced in all other jurisdictions.
- 1920** ● *Commonwealth Nationality Act 1920* denied the vote to people of South Sea Island origin despite being British Subjects.
- 1922** ● Regulations in the Northern Territory excluded Indigenous people from voting. Officials had the power to decide who was Indigenous.
- 1940s** ● Professor AP Elkin, the Aborigines Friends Association, and others agitated for better conditions for Aboriginal people and their right to vote.
- 1948** ● *Nationality and Citizenship Act 1948* established that all Australian-born people are citizens of Australia (and, until changed in 1984, British Subjects).
- 1949** ● The right to vote in federal elections was extended to Indigenous people who had served in the armed forces, except those in Queensland, Western Australia, and the Northern Territory.
- 1958** ● The Federal Council for Aboriginal Advancement (FCAA) was established to unite existing state bodies to push for increased Commonwealth involvement in Aboriginal affairs and the removal of discriminatory state legislation.
- 1961** ● The House of Representatives Select Committee on Voting Rights of Aborigines was established which recommended to grant the right for Indigenous people to vote in federal elections.
- 1962** ● Commonwealth Electoral Act extended the right to enrol and vote in Federal elections to all Indigenous Australians. However, enrolment and voting were not made compulsory for Indigenous Australians until 1984.
- 1967** ● Australia votes 'Yes' in a federal referendum counting Aboriginal and Torres Strait Islander peoples in the census giving the Australian Government the power to make laws for Aboriginal and Torres Strait Islander peoples.
- 1971** ● Neville Bonner AO (1922–1999) was the first Indigenous Australian to be appointed to Federal Parliament in Australia.
- 1973** ● The first national elections for Indigenous people elected 41 members of the National Aboriginal Consultative committee.
- 1979** ● Australian Electoral Commission began the Aboriginal Electoral Education Program.
- 1984** ● Mobile polling first used in remote Northern Territory and Western Australia for Commonwealth elections. Enrolment and voting in Commonwealth elections made compulsory for Indigenous Australians.
- 1989** ● ATSIC, the Aboriginal and Torres Strait Islander Commission, starts operations to combine representative and executive roles, through an organisation of regional councils and a national board elected by Aboriginal and Torres Strait Islander people.
- 1990** ● Aboriginal and Torres Strait Islander Commission (ATSIC) was created electing regional councils and a board of commissioners made decisions on policy and funding.
- 1991** ● NADOC was expanded to recognise Torres Strait Islander people and culture, becoming the National Aborigines and Islanders Day Observance Committee (NAIDOC).
- 1993** ● The AEC's Aboriginal Electoral Education Program became Aboriginal & Torres Strait Islander Electoral Information Service.
- 1996** ● Aboriginal & Torres Strait Islander Electoral Information Service was abolished due to withdrawal of Commonwealth funds.
- 1998** ● The first national 'Sorry Day' is held to remember the 'Stolen Generations' a year after the Bring Them Home report was tabled in Parliament.
- 2003** ● The Aboriginal and Torres Strait Islander Services (ATSIS) takes over from ATSIC responsibility for administering programs and making decisions on funding for grants and other services.
- 2005** ● ATSIC, the peak Aboriginal and Torres Strait Islander representative body, is abolished.
- 2007** ● The Close the Gap campaign was launched in response to Professor Tom Calma's Social Justice Report challenging governments to bring health equality within a generation.
- 2010** ● The Australian Electoral Commission established the Indigenous Electoral Participation Program (IEPP) to close the gap in Indigenous disadvantage in electoral participation.
- 2017** ● The Uluru Statement from the Heart (the Statement) called for substantive reform to realise Indigenous rights, through the establishment of an Indigenous Voice to Parliament and a Makarrata Commission.
- 2018** ● The *Advancing the Treaty Process with Aboriginal Victorians Act 2018* (Treaty Act), Australia's first ever Treaty law, was passed setting out a roadmap towards Treaty negotiations.
- 2020** ● The National Agreement on Closing the Gap was signed by the National Federation Reform Council (NFRC) and the Coalition of Peaks.
- 2023** ● The 2023 Australian Indigenous Voice referendum proposing the Aboriginal and Torres Strait Islander Voice in Parliament was rejected by a majority vote in every state.





## Aboriginal and Torres Strait Islander political participation has increased, but there is still a long way to go

Aboriginal and Torres Strait Islander participation in Australia's legislative institutions has grown over the past two decades. In 2001, Aboriginal and Torres Strait Islander representation was minimal, with no members in the House of Representatives, one in the Senate, and five in state and territory parliaments. By 2021, these numbers had increased to two Aboriginal and Torres Strait Islander members in the House of Representatives, four in the Senate, and 14 in state and territory parliaments, reflecting a significant rise in political Aboriginal and Torres Strait Islander engagement and representation.<sup>7</sup>

Representation of Aboriginal and Torres Strait Islander candidates in Australian politics has increased in recent years, particularly due to the efforts of the Australian Labor Party (ALP), which has promoted more Aboriginal and Torres Strait Islander candidates, particularly women, compared to other major parties.<sup>8</sup> The ALP's use of quotas and support for Aboriginal and Torres Strait Islander candidates has led to a higher number and success rate of Aboriginal and Torres Strait Islander candidacies compared to the Liberal Party and Country Liberal Party. The Australian Greens also have the Greens First Nations Network, which was founded and led by Aboriginal and Torres Strait Islander members as a grassroots group to encourage involvement in election campaigns, have a say in party policy platforms and support candidature in elections.

The success rates of Aboriginal and Torres Strait Islander candidates are notable, with Aboriginal and Torres Strait Islander women having a higher success rate than Aboriginal and Torres Strait Islander men. Parties are currently not transparent about membership demographics, particularly Aboriginal and Torres Strait Islander grassroots members, making it difficult to measure political participation and inclusion progress within parties. The lack of data around member demographics can prevent policy development aimed at increasing involvement, resulting in persistent underrepresentation.

The pathways to candidature vary, with some candidates being long-term party members ('partisans') and others being selected through direct approaches by senior figures ('parachutes'). Pathways to candidacy are an important area of research, questioning the decisions of parties to choose Aboriginal and Torres Strait Islander candidates. The distinction between partisan and parachute candidates is important because it impacts perceptions of legitimacy, representation, and effectiveness within political parties. Partisan candidates, with their long-term party involvement, often have stronger support networks and can be seen as more authentic representatives. Parachute candidates can quickly increase diversity and bring new perspectives but might face challenges adjusting to political life and regarding their commitment to the party. Balancing both pathways can help parties enhance inclusivity and better serve diverse communities in an authentic way.

Committing to the Closing the Gap Priority Reforms is the foundation for enhancing Aboriginal and Torres Strait Islander political participation. Increasing Aboriginal and Torres Strait Islander political participation involves ensuring representatives from these communities are actively involved in decision-making processes with governments, directly influencing policies and actions that affect their lives. Adequate sustained funding for Aboriginal and Torres Strait Islander community-controlled organisations is essential to deliver the necessary services and support, empowering these communities and strengthening their political voice. Transforming government institutions and mainstream services to be safe, free from racism, and genuinely responsive to the needs of Community contributes to a more inclusive and equitable environment, encouraging greater political engagement. Additionally, ensuring access to data and information, and building the capacity of Community to use it, allows our community to monitor progress, set priorities, and drive our own development, ultimately enhancing political participation.

<sup>7</sup> Evans, M., & McDonnell, D. (2022). More partisans than parachutes, more successful than not: Aboriginal and Torres Strait Islander candidates of the major Australian parties. *Australian Journal of Political Science*. <https://doi.org/10.1080/10361146.2022.2065968>.

<sup>8</sup> Evans, M., & McDonnell, D. (2022). More partisans than parachutes, more successful than not: Aboriginal and Torres Strait Islander candidates of the major Australian parties. *Australian Journal of Political Science*, 57(4), 346–367. <https://doi.org/10.1080/10361146.2022.2065968>.



## Recommendation 1: The Victorian Government needs to embed strong partnerships and shared decision-making on local and statewide issues

Priority Reform 1 highlights the need for governments to scrutinise the power dynamics that impact decision-making and make changes to address the systemic power imbalances and advance self-determination. One of the actions for doing this includes the establishment of policy and place-based partnerships to respond to local priorities. As we have seen throughout history, Aboriginal and Torres Strait Islander people have been consistently and deliberately excluded from participating in mainstream politics and until recently, prohibited from practising their culture and traditions, let alone self-governing.

### Treaty is one mechanism for change, but implementing the National Agreement is vital for its success

Victoria has made significant progress in comparison to other states, territories and the Commonwealth government through its commitment to Treaty. The First Peoples' Assembly is the independent and democratically elected Aboriginal Representative Body recognised under the Advancing the Treaty Process with *Aboriginal Victorians Act 2018* (Vic).<sup>9</sup> Treaty presents an exciting path forward for Aboriginal and Torres Strait Islander people and Victorians at large to have sovereignty recognised and be seen as an equal to the Victorian Government. The recognition of Aboriginal and Torres Strait Islander people's sovereignty is central to increasing political participation, elevating their status to an equal with the Victorian Government.

The roll out of commitments under Closing the Gap coincides with the commencement of Treaty negotiations. It is crucial to recognise that fulfilling the Victorian Government's commitments under the National Agreement is a vital step in laying the foundation for the generational process of Treaty. Embedding shared decision-making, strengthening the ACCO sector, transforming government organisations and improving data sharing are all necessary actions that should be embedded in negotiations, but also enable the Treaty to be fully realised and activated from day one.

The Productivity Commission engaged with over 130 Aboriginal and Torres Strait Islander organisations as part of its review and found little systemic change in how government decisions are made, indicating limited progress in sharing decision-making power. Many partnerships were already in place before the National Agreement began, and efforts to review and strengthen them are ongoing but have not yet shown clear results.

### Local partnerships have the power to transform communities

We've seen some progress, like under the *Local Government Act 2020*, which mandates that councils must engage with Aboriginal and Torres Strait Islander communities in their planning and reporting. This engagement aims to ensure that Aboriginal and Torres Strait Islander voices are heard and considered in local governance. The Victorian Aboriginal and Local Government Strategy 2021 was introduced to create pathways to self-determination for Aboriginal and Torres Strait Islander Victorians through partnerships with local governments and the Victorian Government.<sup>10</sup> This strategy emphasises culture, respect, trust, awareness, engagement, accountability, governance, participation, economic participation, health, wellbeing, resourcing, and funding.

To support the strategy, the Minister for Local Government issued the Ministerial Good Practice Guideline, which provides a step-by-step guide for councils on how to effectively engage with Traditional Owners and

<sup>9</sup> 'Victorian Government Aboriginal Affairs Report', pg 18.

<sup>10</sup> Local Government Victoria, 'Victorian Aboriginal and Local Government Strategy 2021 – 2026: Pathway to Stronger Partnerships', Retrieved 30 July 2024, from, [https://www.localgovernment.vic.gov.au/data/assets/pdf\\_file/0029/183935/Victorian-Aboriginal-and-Local-Government-Strategy.pdf](https://www.localgovernment.vic.gov.au/data/assets/pdf_file/0029/183935/Victorian-Aboriginal-and-Local-Government-Strategy.pdf).



Aboriginal and Torres Strait Islander communities.<sup>11</sup> This includes ensuring Aboriginal and Torres Strait Islander voices are included in local decision-making processes and policies.

While these changes reflect a broader commitment to aligning local government practices with the Victorian Aboriginal Affairs Framework, there is a disconnect between this and the Victorian Closing the Gap Implementation Plan and the on-ground realities faced by Aboriginal and Torres Strait Islander communities. To bridge this gap, there need to be more avenues for Community to build connections with local governments. Establishing stronger, more collaborative relationships can ensure that local government policies and practices are not only informed by the National Agreement but are also responsive to the local needs and interests of Aboriginal and Torres Strait Islander communities and community-controlled organisations. This includes establishing partnerships forums with ACCOs, capacity-building initiatives for local government staff, and co-designed projects that prioritise Aboriginal and Torres Strait Islander voices and leadership in decision-making processes.

We know shared decision-making and partnerships work and in our previous submission<sup>12</sup> gave examples of these. We are once again calling on stronger partnership at all levels to support direct political participation through shared decision-making on matter that directly affect Community. To be equal partners, Aboriginal and Torres Strait Islander people must be supported to engage with these opportunities for shared decision-making, whether it's through education, investment or active engagement.

### **Establishing reserve seats for Aboriginal and Torres Strait Islander people in the Victorian Parliament can reduce the influence of party politics on participation**

Australia's representative democracy has historically excluded and under-represented Aboriginal and Torres Strait Islander people, resulting in significant disadvantage. Policies affecting Aboriginal and Torres Strait Islander communities are decided and enforced by colonial, non-Aboriginal and Torres Strait Islander institutions, marginalising Aboriginal and Torres Strait Islander voices. Despite attempts at inclusion, such as a recent referendum aimed at integrating Aboriginal and Torres Strait Islander people into the constitution in an advisory role, true decision-making power remains elusive.

One proposed solution is the establishment of reserved seats for Aboriginal and Torres Strait Islander people in the Legislative Council, similar to New Zealand's system for the Māori. This will entrench and enable participation in the Victorian parliament, without a need for partisan alignment. This would ensure Aboriginal and Torres Strait Islander voices have a direct and influential role in legislative processes, free from the constraints of party politics. By enabling Aboriginal and Torres Strait Islander communities to have real decision-making power over policies affecting their health, housing, education, and land use, this approach aims to foster self-determination and community integrity. The constitution provides the framework for such changes without needing a referendum, merely requiring political will and leadership to acknowledge historical injustices and grant Aboriginal and Torres Strait Islander people the self-determination they deserve.<sup>13</sup>

In 1993, New Zealand adopted the mixed-member proportional voting system and concurrently amended the law to adjust the number of Māori electorates based on the size of the Māori electoral population, following a quota system akin to that used for General electorates.<sup>14</sup> This adjustment means that an increase in Māori enrolment on the Māori electoral roll can lead to an expansion in the number of Māori electorates. Consequently, since 1993, the count of Māori electorates has risen from four to seven. The number of Māori seats in New Zealand does not directly mirror the overall proportion of New Zealanders of

<sup>11</sup> Department of Jobs, Precincts and Regions, 'Ministerial Good Practice Guideline and General Guidance for Councils Engaging with Aboriginal Victorians', Retrieved 30 July 2024, from, [https://www.localgovernment.vic.gov.au/\\_data/assets/pdf\\_file/0031/183937/Ministerial-Good-Practice-Guideline-and-General-Guidance-for-Councils-Engaging-with-Aboriginal-Victorians.pdf](https://www.localgovernment.vic.gov.au/_data/assets/pdf_file/0031/183937/Ministerial-Good-Practice-Guideline-and-General-Guidance-for-Councils-Engaging-with-Aboriginal-Victorians.pdf).

<sup>12</sup> Ngaweeyan Maar-oo (2024), 'Yoorrook Justice Commission Written Submission', retrieved 9 August 2024, <https://yoorrookjusticecommission.org.au/document-library/submission-ngaweeyan-maar-oo/>

<sup>13</sup> Mansell M, (2023). 'Designated Aboriginal and Torres Strait Islander Seats in Senate', Arena, Retrieved 30 July 2024, from, <https://arena.org.au/designated-Aboriginal-and-Torres-Strait-Islander-seats-in-the-senate/>.

<sup>14</sup> Te Ara, 'Story: Ngā māngai – Māori representation - Page 2. Effect of Māori seats', Retrieved 29 July 2024, from, <https://teara.govt.nz/en/nga-mangai-maori-representation/page-2>.



Māori descent, as many Māori individuals opt to enrol in general electorates instead of the Māori electorates. The count of Māori seats aligns with the percentage of voters registered on the Māori roll at any given time, which fluctuates based on outcomes from the Māori electoral option and enrolment figures on the Māori roll. Following the Māori electoral option in 2013, there were approximately 228,000 Māori enrolled on the Māori roll compared to around 184,000 on the general roll, indicating a relatively balanced distribution.<sup>15</sup>

Arguments against the Māori roll and discontent with the Māori seat system claim that the seat can be perceived as racist, separatist, and contradictory to the principle of national unity and equality among all New Zealanders.<sup>16</sup> However, supporters of maintaining the Māori seats contend they have increased Māori representation in Parliament, with New Zealand having a higher proportion of Aboriginal and Torres Strait Islander politicians than other former British colonies with minority Aboriginal and Torres Strait Islander populations.<sup>17</sup>

Exploring the implementation of reserved seats for Aboriginal and Torres Strait Islander people in Victoria, similar to New Zealand's Māori electorates, could enhance Aboriginal and Torres Strait Islander representation and self-determination.

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<sup>15</sup> New Zealand Electoral Commission, 'Media and News - Results of 2013 Māori Electoral Option', Retrieved 29 July 2024, from <https://elections.nz/media-and-news/2013/results-of-2013-maori-electoral-option/>.

<sup>16</sup> Te Ara, 'Story: Ngā māngai – Māori representation - Page 3. Controversy over Māori seats', Retrieved 29 July 2024, from, <https://teara.govt.nz/en/nga-mangai-maori-representation/page-3>.

<sup>17</sup> Te Ara, 'Story: Ngā māngai – Māori representation - Page 3. Controversy over Māori seats'.



## Recommendation 2: Aboriginal community-control must be supported and protected through sustained and dedicated funding to enable them to work with Community

Aboriginal community-controlled organisations (ACCOs) are inherently political, founded in the broader context of land rights and social movements of the 1970s and the Black Power movement that emerged after the 1965 Australian Freedom Rides.<sup>18</sup> During this time, Aboriginal and Torres Strait Islander people began to establish their own organisations, such as land councils, legal services and health services.<sup>19</sup> ACCOs emerged as independent, community-driven organisations, often created with little to no government support and sometimes outright opposition.

These services were established in response to the racism and inadequacies experienced by Aboriginal and Torres Strait Islander people in mainstream services, including issues of affordability, cultural acceptability, and appropriateness of available services.<sup>20</sup> They were also established in response to a long history of government policies and practices which sanctioned the systemic removal of Aboriginal and Torres Strait Islander children from their families, Community and culture. There is a deep vein of mistrust of government, its services and how they affect Aboriginal and Torres Strait Islander people, given the colonial roots of the systems and structures which were designed to systematically destroy Aboriginal and Torres Strait Islander people, communities and culture.

Priority Reform 2 of the National Agreement on Closing the Gap focuses on building the Aboriginal community-controlled sector. This reform emphasises the importance of developing strong Aboriginal community-controlled organisations that deliver better outcomes, employ more Aboriginal and Torres Strait Islander people, and can be utilised over mainstream services. It highlights the need for sustained capacity building, investment, and dedicated funding to support the growth and effectiveness of ACCOs.

Through Aboriginal community-controlled organisations, Aboriginal and Torres Strait Islander communities continue to exercise political power, challenging exclusionary practices and advocating for equitable outcomes within a framework that respects and incorporates Aboriginal and Torres Strait Islander cultural values. ACCOs are also central to achieving the socio-economic outcomes that maximise the ability of Aboriginal and Torres Strait Islander people to participate politically.

The Treaty process must continue to uplift and empower ACCOs, building on the work already achieved by the National Agreement. Maintaining independence of the representative body, ACCOs deep historical knowledge and subject matter expertise must be enshrined through a governance architecture that preserves ACCOs and enhances decision-making, consultative, and accountability powers for the future.

<sup>18</sup> Jongen, C., Campbell, S., McCalman, J., et al. (2020). Transitioning to Aboriginal community control of primary health care: The process and strategies of one community-controlled health organisation in Queensland. *BMC Family Practice*, 21(1), 230. <https://doi.org/10.1186/s12875-020-01300-z>; Poirier, B. F., Hedges, J., Soares, G., & Jamieson, L. M. (2022). Aboriginal Community Controlled Health Services: An Act of Resistance against Australia's Neoliberal Ideologies. *International journal of environmental research and public health*, 19(16), 10058. <https://doi.org/10.3390/ijerph191610058>.

<sup>19</sup> Victorian Aboriginal Health Service. (2024). *History: Pre-1967*. Retrieved July 24, 2024, from <https://www.vahs.org.au/history-pre-1967/>

<sup>20</sup> Jongen, C., Campbell, S., McCalman, J., et al. (2020). Transitioning to Aboriginal community control of primary health care: The process and strategies of one community-controlled health organisation in Queensland. *BMC Family Practice*, 21(1), 230. <https://doi.org/10.1186/s12875-020-01300-z>



## Recommendation 3: Government organisations need to do more to address systemic, procedural and structural barriers to political participation

Transforming government organisations as set out in Priority Reform 3 of the National Agreement is critical to removing the procedural and structural barriers to shared decision making, partnership and political participation between governments and Aboriginal and Torres Strait Islander people. This includes embedding and practicing meaningful cultural safety, increasing accountability through transparent funding and improving engagement with Aboriginal and Torres Strait Islander people. This also includes an action for government to ‘identify, develop or strengthen an independent mechanism or mechanisms, that will support, monitor, and report on the transformation of mainstream agencies and institutions.’

In Victoria, some of this work, including the development of the independent mechanism/s is being proposed to occur through Treaty. However, the Productivity Commission’s *Review of the National Agreement on Closing the Gap* recommended that the independent mechanism be established without further delay.<sup>21</sup> This is consistent with Ngaweeyan Maar-oo’s view that there is work to be done now to ensure that the Victorian Government is meeting its obligations in the lead up to Treaty, and that there is sufficient progress made against the National Agreement to support the transition to a Treaty era. Aboriginal community-controlled organisations also need to be closely and actively involved in the design, development and delivery of any independent mechanism given their extensive expertise and experience in policy and service design and delivery.

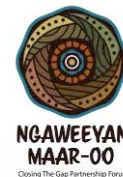
Work to date focuses on small-scale actions within individual government departments or organisations, rather than the coordinated and systematic change required across government. These have included cultural capability training or strategies to increase employment of Aboriginal and Torres Strait Islander people in the public sector rather than changes to Cabinet, budget, procurement and funding processes. The Productivity Commission has reinforced the necessary actions for system transformation as follows:

- Government departments developing and executing a transformation strategy for the portfolio.
- Reviewing and updating funding and contracting rules.
- Reviewing and updating Cabinet and Budget processes.
- Designating a senior leadership group to drive public sector change.
- Embedding responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into public sector employment requirements.

The National Agreement does not define what is meant by government organisations. It has largely been understood to refer to government departments and agencies, however in Victoria the public service and indeed the public sector span far wider than this narrow construction. At its broadest construction, government organisations could include public schools, municipal services such as libraries and maternal child health centres, hospitals and other health services and custodial facilities, including youth justice centres and prisons.

In any event, the transformation of government and its funded services is essential to increasing political participation. Not only does it enable greater individual and collective advocacy on matters such as resourcing, funding, policy directions and scrutiny of outcomes, but it promotes non-traditional means of participation through increased opportunities to participate within government organisations who implement political agendas and shape the on the ground experience and delivery of services. By looking beyond organisations who make decisions and policies, to those who implement them, government organisations can enable and contribute to greater whole of system transformation, especially in local areas.

<sup>21</sup> Productivity Commission (2024), *Review of the National Agreement on Closing the Gap* p. 22. Retrieved 9 August 2024 at <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report>.



## **Recommendation 4: Aboriginal and Torres Strait Islander people need to be supported to access their data to support their political participation and measure progress**

Priority Reform 4 of the National Agreement calls for shared access to data and information at a regional level. This reform aims for Aboriginal and Torres Strait Islander people to 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.

Aboriginal and Torres Strait Islander Data Sovereignty is a fundamental element of shared decision-making and contributes to political participation by empowering Community to control the collection, ownership, and application of data. This requires governments to provide communities and organisations with access to the same data and information they use to make decisions.

There is still significant delay to the implementation of Priority Reform 4 of the National Agreement. Aboriginal and Torres Strait Islander data is still inadequately collected, difficult to access, and lacks the detail and disaggregation to be useful to determine local solutions for local Communities. Current data also lacks the ability to capture the values, culture and social and structural context of the communities, looking at the shortfall in outcomes, rather than the strengths. This directly feeds the deficit-based narrative that inhibits progressive and innovative policy and service design and delivery.

Governments need to recognise and respect the rights of Aboriginal and Torres Strait Islander communities to own and manage their data. This data is vital for setting priorities, monitoring progress, and making informed decisions about their development. This requires sustained funding and resources to enhance the data capabilities of Aboriginal and Torres Strait Islander organisations. This support enables Aboriginal and Torres Strait Islander communities to harness data effectively, driving their own development and political participation.

Furthermore, there is an opportunity to expand data collection to measure Aboriginal and Torres Strait Islander engagement, such as data collected as part of the Voice referendum, and using this to better deliver appropriate, accessible support for political participation.

The failure of governments to make progress under this priority reform directly impacts actions taken under others. Without access to the necessary data, Aboriginal and Torres Strait Islander people and organisations are unable to participate in informed, evidence-based decision making as equal partners.





## Recommendation 5: Social and economic inequality must be recognised as a barrier to political participation and be addressed

In addition to supporting and implementing the CTG priority reforms, it is critical that everyone takes action so that socio-economic targets can be achieved, and barriers to political participation can be addressed. Whilst these barriers are not unique to Aboriginal and Torres Strait Islander people, they result in compounding inequity and disadvantage. Further, as data shows, Aboriginal and Torres Strait Islander people are disproportionately impacted by these barriers, compared to non-Aboriginal Victorians.<sup>22</sup>

### Aboriginal and Torres Strait Islander people need to be supported to make informed voting choices

From 1984, voting in Australia became compulsory for Aboriginal and Torres Strait Islander people, shifting the onus away from individuals choosing whether to vote. Ensuring that Aboriginal and Torres Strait Islander communities have access to voting centres and support and the necessary information to make informed voting choices is crucial to enable a fair democratic process. This involves connecting voting rights with broader educational outcomes.

Access to information and voting services is a significant issue, particularly in regional and rural areas. Aboriginal and Torres Strait Islander communities in these regions may face unique barriers, such as geographical isolation and limited access to resources. To facilitate meaningful participation, it's essential to assess the adequacy of existing systems for disseminating voting information and providing voting services. This includes evaluating the availability of resources, such as voter education programs and physical access to polling stations. Addressing these barriers can help ensure that Aboriginal and Torres Strait Islander people are not disenfranchised by logistical challenges, thereby promoting greater electoral participation and engagement. This can be supported through the expansion of the Passport to Democracy program delivered by the Victorian Electoral Commission to engage Aboriginal and Torres Strait Islander voters.<sup>23</sup>

The Closing the Gap framework targets related to education, such as Target 5, focus on improving education and literacy outcomes for Aboriginal and Torres Strait Islander peoples and is crucial to supporting the ability of Aboriginal and Torres Strait Islander people to make informed decisions when voting. Higher levels of education and literacy improve individuals' capacity to understand and engage with electoral processes, policy platforms, and candidates. As educational outcomes improve, so too does the capability of Aboriginal and Torres Strait Islander people to exercise their voting rights knowledgeably and effectively.

Additionally, Target 17 of the National Agreement focuses on digital inclusion, which is essential for ensuring that Aboriginal and Torres Strait Islander people have equal access to information and services for informed decision-making, much of which is now made available online. By improving access to these resources, Target 17 supports political engagement through the dissemination of information, including how to vote, where to vote and policy platforms and helps addresses political participation barriers, promoting greater inclusion and participation. There is potential for more to be done to improve voting options for those who live in remote areas, including online voting.' During the 2007 election, electronically assisted voting was trialled to assist electors who are blind, or vision impaired to vote independently.<sup>24</sup>

<sup>22</sup> Productivity Commission (2024), Closing the Gap Annual Data Compilation Report July 2024, Canberra

<sup>23</sup> Australian Electoral Commission, 'Reaching out to remote communities this referendum: More places, more time'. Retrieved 9 August 2024. <https://www.aec.gov.au/media/2023/08-09.htm>

<sup>24</sup> Australian Human Rights Commission. (n.d.). The right to vote: Not enjoyed equally by all Australians. Australian Human Rights Commission. <https://humanrights.gov.au/our-work/rights-and-freedoms/publications/right-vote-not-enjoyed-equally-all-australians#nB10a>



## Real progress needs to be made to reduce Aboriginal and Torres Strait Islander overrepresentation in the justice system

Initially, Australia's electoral laws, established in 1901, barred all individuals convicted of offenses punishable by one year or more from voting.<sup>25</sup> During the Hawke-Keating Government (1989-1995), the Australian Labor Party pushed for universal prisoner voting rights but faced strong opposition. Subsequently, the Howard Liberal National Party government tightened restrictions in 2004 and imposed the comprehensive blanket ban on prisoner voting in 2006.<sup>26</sup> This voting ban was contested in *Roach v Electoral Commissioner*.<sup>27</sup>

The case successfully challenged and overturned the 2006 ban, arguing it violated democratic principles by denying all prisoners the right to vote, regardless of their offense or sentence length. It reinforced that the legitimacy of Australia's government stems from all citizens, including those incarcerated.<sup>28</sup> By a 5:2 majority, the High Court held that the blanket ban was unconstitutional because it infringed the requirement of representative democracy under the Constitution. However, it upheld previous restrictions, that only prisoners serving a sentence of three years or less were eligible to vote.<sup>29</sup>

The case underscored broader issues within Australia's legal and penal systems, particularly the disproportionate incarceration of Aboriginal and Torres Strait Islander people. Despite constituting 2 per cent of the population, Aboriginal and Torres Strait Islander people made up 27 per cent of prisoners across Australia by 2016, with Aboriginal and Torres Strait Islander incarceration rates rising 41 per cent from 2006 to 2016, widening the gap with non-Aboriginal and Torres Strait Islander rates.<sup>30</sup> In 2017, Aboriginal and Torres Strait Islander adults accounted for 8.5 per cent of all prisoners in Victoria despite comprising only 0.6 per cent of the total Victorian adult population.<sup>31</sup> The restriction therefore disproportionately restricts the political participation of Aboriginal and Torres Strait Islander people more than other citizens.

While Australia's Constitution emphasises collective voting rights rather than individual rights, international treaties like the International Covenant on Civil and Political Rights (ICCPR) affirm the individual right to vote. However, the non-binding nature of international treaties mean that this right is not consistently upheld across jurisdictions. Victoria has enacted the *Charter of Human Rights and Responsibilities 2006* which recognises fundamental rights, including those set out in international treaties. In contrast, the Commonwealth's *Human Rights (Parliamentary Scrutiny) Act 2011* mandates compatibility statements without requiring reasonable limitation of rights.<sup>32</sup>

Target 10 of the National Agreement, which seeks to ensure Aboriginal and Torres Strait Islander adults are not overrepresented in the criminal justice system intersects with these barriers to voting and political engagement. High incarceration rates within these communities directly impact their ability to vote and participate in political processes. By focusing on reducing this overrepresentation, Target 10 seeks to create a more equitable environment that facilitates greater political engagement and representation. Reducing the number of Aboriginal and Torres Strait Islander individuals within the criminal justice system is crucial for ensuring that these communities can fully exercise their voting rights and engage in the democratic process.

Target 11 of the National Agreement is to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent. Addressing the overrepresentation of Aboriginal

<sup>25</sup> Activist Rights, 'Roach v Electoral Commission 2007', Retrieved 30 2024, from, <https://activistrights.org.au/kb/strategic-litigation/case-examples/roach-v-electoral-commission-2007/>.

<sup>26</sup> Ibid.

<sup>27</sup> (2007) 233 CLR 162.

<sup>28</sup> Above 18.

<sup>29</sup> Ibid.

<sup>30</sup> Australian Law Reform Commission, 'Disproportionate Incarceration rate', Retrieved 30 July 2024, from, <https://www.alrc.gov.au/publication/pathways-to-justice-inquiry-into-the-incarceration-rate-of-aboriginal-and-torres-strait-islander-peoples-alrc-report-133/executive-summary-15/disproportionate-incarceration-rate/>.

<sup>31</sup> Aboriginal Justice Victoria. (n.d.). *Aboriginal cohorts under justice supervision*. Retrieved August 7, 2024, from <https://www.aboriginaljustice.vic.gov.au/node/36/aboriginal-cohorts-under-justice-supervision>

<sup>32</sup> Churchill, H. (2020), Voting Rights in Prison: Issues Paper. *The University of Queensland*. Queensland.



and Torres Strait Islander young people in detention through the National Agreement will increase equitable political participation. High incarceration rates among young Aboriginal and Torres Strait Islander people not only disrupt their lives and futures but also hinder their ability to engage fully in political processes from a young age. Achieving Target 11 and reducing detention rates among youth will contribute to breaking the cycle of disadvantage and ensuring that young Aboriginal and Torres Strait Islander people are not unjustly excluded from participating in the political system.

### **Culturally safe and appropriate housing and homelessness supports are needed to create supportive environments for Aboriginal and Torres Strait Islander to freely participate in politics and through their Community**

Housing insecurity and homelessness is a complex issue, that can both cause and be caused by a range of circumstances and interventions, including incarceration, family violence, drug and alcohol use, chronic health conditions, disability, mental health challenges, and unemployment. A lack of political engagement by those experiencing homelessness on matters and policies that impact them exacerbates their marginalisation.<sup>33</sup> According to the 2021 census, 24,930 Aboriginal and Torres Strait Islander people were estimated to be experiencing homelessness, a 6.4 per cent increase from 23,437 in 2016.<sup>34</sup> This figure represents a staggering one in five (20.4 per cent) people experiencing homelessness in the country.

This persistent and disproportionate rate of homelessness among Aboriginal and Torres Strait Islander people directly impacts their ability to engage in the political process, largely due to issues with proving identity and accessing voting centres. To participate in Australia's compulsory voting process, an enrolment form must be completed identifying a residential address where they have lived for at least one month so that they can be assigned to an electoral division. For people experiencing homelessness, they may enrol as itinerant voters which have slightly more flexible requirements regarding residential addresses. However, the requirement to prove identification remains a large barrier to voting, as people experiencing homelessness might not have access to essential identification documents or the consistency of contact with enrolled voters who can verify their identity.

Whilst voting is not compulsory in Victoria for itinerant voters with no fixed address, it is for people who are registered to an address. Therefore, people who have been previously enrolled to an address face fines for not voting in the event they fail to amend their enrolment to show they are itinerant voters. Whilst the fine can be appealed, it presents an additional burden on the individual and an additional interaction with the justice system and is an example of where the failure to politically participate can present an unintended consequence.

There is an urgent need to address the barriers that people experiencing homelessness face from participating in elections from enrolment right through to receiving information and support to exercise their right to vote and ensure democratic legitimacy through inclusivity. It is also essential that all groups have their social and economic interests represented and protected by empowering and encouraging voting amongst all community members.

Target 9 of the National Agreement aims for people to secure appropriate, affordable housing aligned with their needs, but doesn't explicitly reference homelessness nor include a homelessness target and outcome for action. We ask that the Victorian Government continues to support Ngaweeyan Maar-oo's advocacy for a dedicated homelessness target and enables its achievement through adequate resourcing and service support for people experiencing homelessness. By embedding a target towards eradicating homelessness, we will be better positioned to advocate and resource necessary services to support Aboriginal and Torres Strait Islander people and create supported environments for their community and political participation.

<sup>33</sup> Coram, V., Louth, J., Hill, L., Tually, S., & Goodwin-Smith, I. (2019). An Exploration of Homelessness and Electoral Participation. *University of South Australia and The University of Adelaide*, Adelaide.

<sup>34</sup> Australian Bureau of Statistics. (2023, June 27). *Aboriginal and Torres Strait Islander peoples experiencing homelessness*. ABS. <https://www.abs.gov.au/articles/aboriginal-and-torres-strait-islander-peoples-experiencing-homelessness>



## Building trust with young Aboriginal and Torres Strait Islander people is essential for the engagement of future generations in politics and advocacy

Engaging young Aboriginal and Torres Strait Islander people in voting is essential for active participation in the democratic process. A 2016 study highlights the complex attitudes and experiences of Aboriginal and Torres Strait Islander youth towards voting and politics, revealing a spectrum of engagement and empowerment.<sup>35</sup> While 45 per cent of respondents reported that they felt engaged and empowered, the remainder reporting feeling either disempowered, disengaged or both. Significantly, it is estimated that the total disengagement of youth sits around 25 per cent.<sup>36</sup>

The study also identified several barriers to influence and participation, such as a lack of experience, self-confidence, and political knowledge, combined with ageism and a lack of trust in young people's views. A pronounced disengagement from mainstream politics was evident, with many participants expressing low interest in and identification with politicians, negative attitudes towards voting, and a general sense of futility regarding electoral outcomes.<sup>37</sup> Despite some viewing voting as a way to feel involved and have a voice, others were disengaged, seeing it as futile or preferring to pay fines for not voting. Overall, the relationship to democracy was ambivalent, marked by a distrust in politicians and a belief in their corruption or disrespect towards Aboriginal and Torres Strait Islander people.

There are several targets in the National Agreement that focus on young people's engagement with education and employment and ensuring that young people are not overrepresented in child protection and youth justice. We've already discussed the importance of education and the impact of imprisonment on political participation. However, beyond this, young people need to be supported generally to politically participate, not just through targeted measures for children and young people who are the subject of interventions. Support for connecting young people with their culture and community, strengthening their identity as young Aboriginal and Torres Strait Islander people and supporting them to be emerging leaders within their community is critical to fostering political awareness and developing the next generation of advocates and activists.

Young people should be encouraged and supported to participate in decision-making through elections. We suggest lowering the voting age, not just for Aboriginal and Torres Strait Islander people, but across the board, to ensure that young people have a say in the matters that impact them and their communities. Given the small Aboriginal and Torres Strait Islander population, increasing the number of eligible voters to support collective political participation and decision-making can have major impacts for how policies and programs are designed and delivered.

## Improving health outcomes and increasing access to culturally safe disability support services is critical to overcome barriers

Ensuring political participation for Aboriginal and Torres Strait Islander people with disabilities is crucial for their representation and protection in society. In 2018, 24 per cent of the Aboriginal and Torres Strait Islander population had a disability, equating to an estimated 139,700 people, with 51,100 experiencing severe or profound disability.<sup>38</sup> Aboriginal and Torres Strait Islander people are 1.9 times more likely to have a disability compared to non-Aboriginal and Torres Strait Islander Australians. International research highlights that people with intellectual disabilities often face exclusion from voting due to perceived capacity

<sup>35</sup> Walsh, L., Zyngier, D., Fernades V., Zhang H. (2018). Engaged but Ambivalent: A Study of Young Aboriginal and Torres Strait Islander Australians and Democratic. *The Australian Journal of Aboriginal and Torres Strait Islander Education*. 48(2), 193.

<https://ajie.atsis.uq.edu.au/ajie/article/view/249/190>.

<sup>36</sup> Walsh, L., Zyngier, D., Fernades V., Zhang H. (2018). Engaged but Ambivalent: A Study of Young Aboriginal and Torres Strait Islander Australians and Democratic.

<sup>37</sup> Walsh, L., Zyngier, D., Fernades V., Zhang H. (2018).

<sup>38</sup> Australian Institute of Health and Welfare & National Aboriginal and Torres Strait Islander Australians Agency. (2023). *Measure 1.14 Disability, Aboriginal and Torres Strait Islander Health Performance Framework website*. Retrieved from <https://www.AboriginalandTorresStraitIslanderhpf.gov.au/measures/1-14-disability>.

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limitations and have lower voting rates compared to the general population.<sup>39</sup> Many individuals with disabilities want to participate in political processes but face barriers such as inadequate support from officials, support services and family, and doubts about their ability to vote. Supporting disability organisations, especially ACCOs to engage families in appropriate and accessible voting education, explore peer education, and consider law reforms are crucial to improving participation. Providing clear, accessible information about political platforms and offering encouragement can significantly boost voting engagement among people with intellectual disabilities.<sup>40</sup>

Outcome 17 of the Closing the Gap framework seeks to ensure Aboriginal and Torres Strait Islander people have equal access to information and services for informed decision-making. Addressing barriers to political participation by leveraging accessible formats of information (such as read aloud functionality), particularly for individuals with disabilities, directly supports this target by enabling them to engage fully in the political process and access necessary resources. Enhancing political participation increases inclusion and empowers people with disabilities to influence policies affecting their lives, promoting equitable decision-making.

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<sup>39</sup> Bigby, C., Tipping, S., Bould, E., Thiele, R. (2019). Final report: Strategies to support people with intellectual disabilities to participate in voting. Living with Disability Research Centre, La Trobe University: Bundoora, VIC; James, E., Harvey, M., & Hatton, C. (2018). Participation of adults with learning disabilities in the 2015 United Kingdom General Election. *Tizard Learning Disability Review*, 23(1), 65-71.

<sup>40</sup> Bigby, C., Tipping, S., Bould, E., Thiele, R. (2019). Final report: Strategies to support people with intellectual disabilities to participate in voting. Living with Disability Research Centre, La Trobe University: Bundoora, VIC.



## Recommendation 6: There needs to be greater protection for Aboriginal and Torres Strait Islander people who experience racism throughout the course of politics

In addition to the above systemic and socio-economic barriers to political participation, we also see evidence of Aboriginal and Torres Strait Islander people being further marginalised as a result of the politicisation of Aboriginal and Torres Strait Islander issues. This in part stems from a colonial deficit narrative, where Aboriginal and Torres Strait Islander people are not positioned as contributors or achievers, but rather subjects of systemic interventions. Furthermore, the media has been seen to perpetuate harmful narratives and misinformation that undermines the collective and individual narratives and rights of Aboriginal and Torres Strait Islander people.

The Voice referendum, held on 14 October 2023, was a historical attempt to seek constitutional reforms to empower Aboriginal and Torres Strait Islander people. Proposed as part of the *2017 Uluru Statement from the Heart*, the Voice model was developed through extensive consultation with Aboriginal and Torres Strait Islander people. The Voice set out to amend the Australian Constitution to enshrine an Aboriginal and Torres Strait Islander Voice and establish the Makarrata Commission to oversee agreement-making and truth-telling about Australia's history. This change would have given Aboriginal and Torres Strait Islander communities a constitutional basis to inform policy and legal decisions that impact their lives.

Public opinion prior to the referendum was reported on by the Australian Reconciliation Barometer (ARB), a national research survey conducted every two years looking at the relationship between Aboriginal and Torres Strait Islander peoples and other Australians, and how perceptions affect progress towards reconciliation.<sup>41</sup> The 2022 ARB report found that almost all Australians, both Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander, valued the relationship between each other. Data showed that nearly all Australians supported Aboriginal and Torres Strait Islander people to have a say in their own affairs. The survey highlighted strong mutual trust and a significant increase in support for Treaty and formal truth-telling processes. Many believed that embedding the Voice in the Constitution would not only recognise the unique place of Aboriginal and Torres Strait Islander peoples in Australia's history but also ensure that their advisory body could not be easily dismantled by future governments. Despite this strong support in 2022, the referendum ultimately failed.

Racially biased media coverage and misinformation played a significant role in undermining and ultimately, sabotaging the Voice. Prominent political figures and online narratives framed the referendum as "racist" and "racially divisive," stoking fears of racial segregation and preferential treatment. This distortion was amplified by the spread of misleading comparisons to apartheid and the misrepresentation of the Voice as a "third chamber" of Parliament.<sup>42</sup> These narratives ignored the Voice's intent to rectify historical injustices and ensure Aboriginal and Torres Strait Islander peoples had a say in policies affecting them. Instead, this discourse fuelled confusion and resentment, creating doubt and opposition within the public that had previously supported efforts towards reconciliation. During this time there was a spike in Aboriginal and Torres Strait Islander people seeking mental health support, due to racism fuelled by the debate.<sup>43</sup>

<sup>41</sup> Reconciliation Australia. (2022). *2022 Australian Reconciliation Barometer*. Reconciliation Australia. <https://www.reconciliation.org.au/publication/2022-australian-reconciliation-barometer/>.

<sup>42</sup> Chan, E. (2024, July 25). Common confusions about the Voice to Parliament. *RMIT News*. <https://www.rmit.edu.au/news/crosscheck/common-confusions-about-voice-to-parliament>

<sup>43</sup> MC, A. (2023, October 6). As vote nears, horrific racism mars Australian Voice referendum campaign. Al Jazeera. <https://www.aljazeera.com/news/2023/10/6/as-vote-nears-horrific-racism-mars-australian-voice-referendum-campaign> (Accessed 2024, July 26).

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The global media ultimately viewed the No vote as confirmation of Australia’s racism and resistance to meaningful reconciliation with its Aboriginal and Torres Strait Islander population, drawing comparisons to the international reactions to Brexit and Trump’s election.<sup>44</sup>

To support meaningful reconciliation for the future, it is crucial to address the undermining influence of racially biased media coverage and require stronger protections against the spread of misinformation. Increasing public education and media literacy on Aboriginal and Torres Strait Islander issues can combat misleading narratives and build a more informed and supportive public discourse. This includes requiring minimum standards for factual reporting to promote accurate information about constitutional reforms and like the Voice and elections to ensure that debates are grounded in truth and contribute positively to reconciliation efforts and strengthened journalistic ethical standards that ensure there is accountability for the intentional dissemination of misinformation.

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<sup>44</sup> Piper, H. (2023, September 13). Aboriginal and Torres Strait Islander Voice: Getting ready to explain to the world if Australia votes No. Lowy Institute. <https://www.lowyinstitute.org/the-interpreter/Aboriginal-and-Torres-Strait-Islander-voice-getting-ready-explain-world-if-australia-votes-no> (Accessed 2024, July 26); Strating, R., & Carson, A. (2023, October 15). Lies fuel racism: How the global media covered Australia’s Voice to Parliament referendum. *The Conversation*. <https://theconversation.com/lies-fuel-racism-how-the-global-media-covered-australias-voice-to-parliament-referendum-215665>.



## Conclusion

The political participation of Aboriginal and Torres Strait Islander peoples is essential for a truly representative and inclusive democratic process in Australia. Historical and systemic barriers have long hindered political participation, forcing Aboriginal and Torres Strait Islander people to forge their own path, but through concerted efforts and strategic reforms, these obstacles can be overcome.

This submission underscores the importance of recognising and addressing these barriers through targeted measures aligned with the National Agreement on Closing the Gap.

Enhanced political participation and representation will not only rectify historical injustices but also ensure that the unique perspectives and needs of Aboriginal and Torres Strait Islander communities are incorporated into national decision-making processes. The implementation of the recommendations in this submission is a crucial step in this direction, ensuring that Aboriginal and Torres Strait Islander voices are heard and respected.





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