



28 June 2024

Yoorrook Justice Commission
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Via email: enquiries@yoorrook.org.au

Dear Commissioners

We write to you as the Co-Chairs 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.

We thank you for the chance to appear before the Commission on 27 May 2024 to open the Social Injustice hearings. As you will recall, we highlighted the National Agreement's commitment towards driving systemic and structural transformation to reform how governments work with Aboriginal and Torres Strait Islander people to deliver better outcomes. You will also recall that there is still a long way to go.

In support of our testimony before the Commission, please find enclosed a written submission from Ngaweeyan Maar-oo. Our submission makes several recommendations for the Commission's consideration relating to the four priority reform areas set out in the National Agreement, including the adoption of the Productivity Commission's recommendations and essential actions outlined in the *Closing the Gap review*.

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
28/06/2024

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



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

Yoorrook Justice Commission Written Submission

Ngaweeyan Maar-oo
June 2024

Yoorrook Justice Commission - Written Submission

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

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In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander people. 'Indigenous' or 'Koori/Koorie' is retained when part of the title of a report, program or quotation.

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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.

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.

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Introduction

About Ngaweeyan Maar-oo

Ngaweeyan Maar-oo, meaning “Voice of and from the people” in Gunditjmarra 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.

Aboriginal Community-Control

The Aboriginal Community Controlled sector has been recognised by the Australian Institute of Health and Welfare as the largest employer and service provider to Aboriginal and Torres Strait Islander people across Victoria and beyond federated borders (AIHW, 2016).

The 1978 Alma-Ata declaration states that health “is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity”. It also recognises health as a fundamental human right, reliant on the realisation of social and economic development.

‘Aboriginal health’ draws on this declaration, to refer to not just the physical well-being of an individual but the social, emotional and cultural well-being of the whole Community, where each individual is able to achieve their full potential as a human being, thereby bringing about the total well-being of their Community. It is a whole of life view and includes the cyclical concept of life-death-life. Aboriginal Community Controlled Organisations (ACCOs) provide a comprehensive model of care that responds to the individuals wholistic needs underpinning the 1978 Alma-Ata declaration.

“Community Control means that each independent and autonomous health service is controlled by the community it serves, in order to provide that Community with health care delivery to meet its health needs, as defined by that community. The solution to each Community’s health needs is in the hands of that Community.”

—Bruce McGuinness

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The National Agreement outlines these characteristics of community control in Clause 44 as follows:

...an Aboriginal and/or Torres Strait Islander Community-Controlled Organisation delivers services, including land and resource management, that builds the strength and empowerment of Aboriginal and Torres Strait Islander communities and people and is:

- a. incorporated under relevant legislation and not-for-profit
- b. controlled and operated by Aboriginal and/or Torres Strait Islander people
- c. connected to the community, or communities, in which they deliver the services
- d. governed by a majority Aboriginal and/or Torres Strait Islander governing body.

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Executive Summary

As the Victorian Government's implementation and shared-decision making partner, Ngaweeyan Maar-oo has a whole of system view of how government funded services and policies impact Aboriginal and Torres Strait Islander people in Victoria. The Commission has heard significant evidence on the way institutions, systems and policies that were established as part of assimilation policy have impacted the lives of Aboriginal and Torres Strait Islander people and their families.

Our ACCOs see the ongoing and intergenerational impacts of these policies every day when providing critical services to Community. However, despite moving away from assimilation policy in the 1970s, the institutions set up to implement it remain and continue to systemically discriminate against Aboriginal people.

“The harm caused by early colonial policies, including those of the Colony of Victoria when it became independent, were compounded by the policies of the State of Victoria and the Australian Commonwealth. These policies... have resulted in the loss of Aboriginal culture, the near eradication of Aboriginal language, and the replacement of Aboriginal ways of Knowing, Being and Doing... The alienation and harm caused by colonisation and subsequent policies is clearly evident today in significant health and socioeconomic disparities experienced by Aboriginal and Torres Strait Islander communities.”

—Victorian Aboriginal Community-Controlled Health Organisation, Submission to the Yoorrook Justice Commission 9 February 2024

This submission aims to build on and further explore the issues raised in the verbal testimony of the Ngaweeyan Maar-oo co-chairs and Executive Director. In particular, this submission:

- provides an overview and stocktake of the National Closing the Gap Agreement
- provides direction to the Victorian Government on next steps in activating the Productivity Commission Review into the National Closing the Gap Agreement recommendations
- makes further recommendations to draw on the Victorian experiences and challenges implementing the National Agreement
- coordinates a statewide collective position on behalf of the Ngaweeyan Maar-oo memberships individual recommendations made through their submissions to Yoorrook Justice Commission

In preparing this submission, Ngaweeyan Maar-oo has drawn on the extensive evidence and testimony provided to the Yoorrook Justice Commission, including that of its members, Community and government. Ngaweeyan Maar-oo has conducted an extensive review of the National Agreement and its reporting and data, as well as the Productivity Commission's *Closing the Gap Review* and other supporting literature. Ngaweeyan Maar-oo's members have significant expertise and experience in designing and delivering policies and services to Community. We know what works and we know what our Community needs, not just to Close the Gap, but for our people and culture to thrive.

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Recommendations

Ngaweeyan Maar-oo is united in its call for shared-decision making power to transform and dismantle colonial systems and establish systems designed for Aboriginal people, by Aboriginal people. Our submission makes the following recommendations to realise this fundamental change:

1. Recommendation 1: The Yoorrook Justice Commission reaffirms the Productivity Commission's recommendations and essential actions to achieve Closing the Gap outcomes within a generation.
2. Recommendation 2: The new Victorian Closing the Gap Implementation Plan outlines an ambitious reform agenda, to not only Close the Gap, but enable Aboriginal and Torres Strait Islander people to thrive.
3. Recommendation 3: The Victorian Government commits to building and investing in strong partnerships for shared-decision making.
4. Recommendation 4: The Victorian Government must provide reliable, long-term funding for ACCOs to develop Aboriginal workforces, support reforms, and strengthen the sector in line with Priority Reform 2.
5. Recommendation 5: A clear transformation strategy needs to be developed in Victoria.
6. Recommendation 6: The Victorian Government must prioritise collecting and sharing local, disaggregated data.

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The National Agreement on Closing the Gap

The national Close the Gap campaign began following the release of the *Social Justice Report 2005* by then Social Justice Commissioner Tom Calma AO, which detailed the 'Indigenous Health Challenge'. A key recommendation from the Report called for all Australian governments to commit to 'achieving equality of health status and life expectancy between Aboriginal and Torres Strait Islander and other Australians within a generation.'

In 2008, the Council of Australian Governments (COAG) committed to Closing the Gap on Indigenous Disadvantage as part of the then National Indigenous Reform Agreement (NIRA). Closing the Gap targets were developed to reduce the inequality of health outcomes between Aboriginal and Torres Strait Islander people and other Australians. Progress on the targets was hindered over time by incomplete implementation, insufficient government investment, and inadequate engagement and collaboration with Aboriginal people and Community involvement.

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 on Closing the Gap (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.

Priority Reform areas

The four priority reform areas are central to the achieving the systemic and structural transformation of how governments work with Aboriginal and Torres Strait Islander people. The four reforms are:

- | | |
|-------------------|---|
| Priority Reform 1 | Formal partnerships and shared decision-making |
| Priority Reform 2 | Building the community-controlled sector |
| Priority Reform 3 | Transforming government organisations |
| Priority Reform 4 | Shared access to data and information at a regional level |

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Outcomes and targets

The National Agreement on Closing the Gap has 19 socio-economic targets across 17 socio-economic outcome areas. The Productivity Commission reports on the progress against the targets to assist all parties (signatories) in monitoring and tracking efforts.

The outcome areas capture the desired result for Aboriginal and Torres Strait Islander people, whilst the targets are the specific goals that governments are publicly accountable for and are used to measure progress against the outcomes. Each target is also supported by a range of indicators that provide important contextual information or are considered drivers impacting progress against a target.

The outcomes areas are as follows:

Outcome 1: Aboriginal and Torres Strait Islander people enjoy long and healthy lives

Outcome 2: Aboriginal and Torres Strait Islander children are born healthy and strong

Outcome 3: Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years

Outcome 4: Aboriginal and Torres Strait Islander children thrive in their early years

Outcome 5: Aboriginal and Torres Strait Islander students achieve their full learning potential

Outcome 6: Aboriginal and Torres Strait Islander students reach their full potential through further education pathways

Outcome 7: Aboriginal and Torres Strait Islander youth are engaged in employment or education

Outcome 8: Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities

Outcome 9: Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need

Outcome 10: Aboriginal and Torres Strait Islander people are not overrepresented in the criminal justice system

Outcome 11: Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system

Outcome 12: Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system

Outcome 13: Aboriginal and Torres Strait Islander families and households are safe

Outcome 14: Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing

Outcome 15 – Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters

Outcome 16: Aboriginal and Torres Strait Islander cultures and languages are strong, supported and flourishing

Outcome 17: Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives

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Implementation, accountability and oversight

All jurisdictions, including local governments, and the Coalition of Peaks share accountability for implementing the National Agreement and for achieving the outcomes and targets set out within it.

The Productivity Commission regularly publishes a dashboard that reports on the progress against the targets to assist all parties (signatories) in monitoring and tracking efforts. In addition to the dashboard, the Productivity Commission also completes a comprehensive, independent review of progress every three years. The National Agreement also allows for an Independent Aboriginal and Torres Strait Islander-led review to be conducted within twelve months of the Productivity Commission's review.

Joint Council on Closing the Gap

In late 2018, the Council of Australian Governments (COAG) approved the establishment of the Joint Council for Closing the Gap, honouring the commitment of a formal Partnership on Closing the Gap with Aboriginal and Torres Strait Islander people. The Joint Council meets quarterly to coordinate, advise governments, and monitor performance under the National Agreement.

The Joint Council is currently co-chaired by the Australia Minister for Indigenous Australians and the Lead Convenor of the Coalition of Peaks. Its membership includes representatives from each state and territory government and the Australian Local Government Association, as well as Aboriginal and Torres Strait Islander peak bodies.

The Joint Council's workplan for 2024 focuses on five key commitments aligned with the clauses of the National Agreement. The current status of each commitment is below.

Commitment	National Agreement clause	Status
Provide a formal response to the Productivity Commission review	Clause 121	In progress
Commence the Aboriginal and Torres Strait Islander led Review	Clause 125	Not commenced
Monitoring Implementation Plans through annual reports	Clauses 111 & 118	In progress
Establish six new place-based partnership across Australia	Clause 39	Behind
Develop measure to increase the proportion of services delivered by community-controlled sector	Clauses 55a & 55b	Behind

Clause 38 of the National Agreement also outlines five priority areas for Joint Council to establish a joined-up approach to identifying opportunities to work more effectively, reduce gaps and duplication and improve outcomes under Closing the Gap.

These areas are:

1. Justice (adult and youth incarceration)
2. Health (mental health)
3. Housing
4. Early childhood care and development
5. Disability

Ngaweeyan Maar-oo and Victorian Government have also identified an addition priority of 'Languages and Culture', given the significance for Aboriginal and Torres Strait Islander people living in Victoria.

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Victoria's performance under the National Agreement

The Closing the Gap data dashboard, whilst providing some insights, has significant gaps that undermine its accuracy and usefulness in determining progress under the National Agreement. In Victoria, some of the targets have data that is unavailable or incomplete, including in crucial areas such as life expectancy and suicide rates. Without these insights it is difficult to accurately assess the effectiveness of Victoria's current actions to achieve the outcomes set out in the National Agreement.

While the dashboard suggests Victoria is on track to meet several targets and has shown improvement across multiple indicators (targets 2, 3, 4, 5, 6, 7, 8, 9a, 10, 11, 15a, and 15b), it fails to provide a nuanced understanding of the impact that achieving these targets has on achieving the desired outcomes. For example, under Target 8, the measure used to assess progress is the percentage of 25–64-year-olds employed. According to the dashboard, Victoria is performing well with 62 per cent of 25–64-year-olds employed. However, the data does not provide any information on critical features of their employment, including the number of hours worked, the security of their employment, their industry or their wage. All of this additional information is critical to accurately assess whether Victoria is meeting the actual goal of “strong economic participation and development of Aboriginal and Torres Strait Islander people and communities.”

Additionally, there is a lack of clarity on what the data used means, and how it was collected. For example, the dashboard shows that 125.8 per cent of children were enrolled in preschool in Victoria in 2022. There is no statement about methods used in data collection, issues with data collection (such as double counting) or any factors that have led to what appears to be skewed reporting. In failing to adequately explain the data, it is hard to determine whether this is a meaningful increase. These issues emphasise why it is essential that we measure meaningful outcomes rather than outputs or measures devoid of context or significance. This shift needs to occur to align initiatives and efforts with the National Agreement outcomes.

A summary of Victoria's performance based on most recent data is below.¹

Target measure	Baseline	Victoria	Annual change	Status
Aboriginal and Torres Strait Islander people enjoy long and healthy lives	N/A	N/A	N/A	No data available
Aboriginal and Torres Strait Islander children are born healthy and strong	88.8%	89.5%	0.31%	Improving
Aboriginal and Torres Strait Islander children are engaged in high quality, culturally appropriate early childhood education in their early years	88.1%	125.8%	6.26pp	Improving
Aboriginal and Torres Strait Islander children thrive in their early years	35.1%	35.6%	0.17pp	Improving
Aboriginal and Torres Strait Islander students achieve their full learning potential	69.6%	72.6%	0.60pp	Improving
Aboriginal and Torres Strait Islander students reach their full potential through further education pathways	56.5%	58.5%	0.40pp	Improving

¹ Productivity Commission, 'Closing the Gap Annual Data Compilation Report – Attachment C Summary of progress across socio-economic outcome areas', (July 2023) <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/report/snapshot-socioeconomic> [24 June 2024].

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Target measure	Baseline	Victoria	Annual change	Status
Strong economic participation and development of Aboriginal and Torres Strait Islander people and communities	57.3%	62.0%	0.02pp	Improving
Aboriginal and Torres Strait Islander people secure appropriate, affordable housing that is aligned with their priorities and need	9A 87.6%	88.8%	0.23pp	Improving
	9B N/A	N/A	N/A	No data available
Aboriginal and Torres Strait Islander adults are not overrepresented in the criminal justice system	2,114.3 (rate of Indigenous prisoners per 100,000 adult population)	1,605.1	-146.25	Improving
Aboriginal and Torres Strait Islander young people are not overrepresented in the criminal justice system	18.5 (rate of Aboriginal and Torres Strait Islander young people aged 10–17 years in detention on an average day per 10,000 young people)	9.5	-3.34	Improving
Aboriginal and Torres Strait Islander children are not overrepresented in the child protection system	89.9 (rate of Aboriginal and Torres Strait Islander children aged 0–17 years in out-of-home care per 1,000 children in the population)	102.2	4.02	Worsening
Aboriginal and Torres Strait Islander families and households are safe	7.5%	N/A	N/A	No data available.
Aboriginal and Torres Strait Islander people enjoy high levels of social and emotional wellbeing	N/A	N/A	N/A	No data available.
Aboriginal and Torres Strait Islander people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters	15A 14,934 sq km	14,942	4.00	Improving
	15B 265 sq km	267	1.00	Improving
Aboriginal and Torres Strait Islander cultures and languages are strong, supported and flourishing	4 languages	N/A	N/A	No data available.
Aboriginal and Torres Strait Islander people have access to information and services enabling participation in informed decision-making regarding their own lives	89.5%	N/A	N/A	No data available.

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Recommendation 1: The Yoorrook Justice Commission reaffirms the Productivity Commission's recommendations and essential actions to achieve Closing the Gap outcomes within a generation.

Clause 121 of the National Agreement states that “the Productivity Commission will undertake a comprehensive review of progress every three years”. The Productivity Commission’s review examines progress on the four Priority Reforms, socioeconomic outcomes, and factors influencing progress.

The Productivity Commission handed its first Closing the Gap review (the Review) to Joint Council on 24 January 2024. Amongst its key findings, the Review deemed that the National Agreement and its reforms have not been prioritised by governments and that overall progress against the Priority Reforms has been “slow, uncoordinated and piecemeal”. The Review also notes that with over 2,000 individual initiatives listed across jurisdictional implementation plans, that these actions reflect government’s business-as-usual response, rather than progressing towards strategic transformation and outcomes. Additionally, it found that governments have generally failed to identify and address the “diversity of regional needs, cultures and governance structures within the jurisdiction”.

To address these findings, the Review contains four key recommendations:

1. Power needs to be shared.
2. Indigenous data sovereignty needs to be recognised and supported.
3. Mainstream government systems and cultures need to be fundamentally rethought.
4. Stronger accountability is needed to drive behaviour change.

To implement these recommendations, the Productivity Commission proposed 16 actions to strengthen the implementation and clarity of the Priority Reforms. They are proposed to be collectively implemented as they are interlinked, interconnected and enhance the overall achievement of the outcomes under the National Agreement.

Ngaweeyan Maar-oo endorses the recommendations and essential actions and has consistently advocated for their full and unreserved adoption by governments. We want to ensure these are embedded in future reform directions and Implementation Plans, both under and beyond the National Agreement. We have provided further details on the recommendation actions below.

Power needs to be shared

The Productivity Commission found that the “commitment to shared decision-making is rarely achieved in practice”, and that despite the National Agreement’s reference to policy and place-based partnerships, at its core, Priority Reform 1 is about power sharing.

The Productivity Commission notes instances of failure to invest in partnerships and the paternalism that pervades decision-making forums, where Aboriginal and Torres Strait Islander partners are asked to agree to solutions, rather than being involved in their co-design. It also notes that the adoption of the partnership principles articulated in the National Agreement has largely been limited to the formal policy

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and place-based partnerships required under the Agreement, rather than being adopted in wider practice.

The Productivity Commission also confirmed what the ACCO sector already knows; that government policy does not reflect the value, experience or expertise of ACCOs. By treating them as “passive recipients of government funding”, there are limited instances of power being transferred, and where there is, such as under section 18 of the *Children, Youth and Families Act 2005* (Vic), there is no transfer of sufficient resources or Aboriginal-led governance to enable ACCOs to exercise this power.

It is with this assessment, the recommendation was made that “Power needs to be shared”, to demonstrate the broader effort required to achieve the goal under Priority Reform 1.

To achieve this recommendation, the Review sets out the following essential actions:

1. Amend the Agreement to clarify the purpose and broaden the scope of Priority Reform 1.
2. Governments treating ACCOs as essential partners in program and service design and delivery, not simply as funding recipients.
3. Regular meetings between Ministers and Aboriginal and Torres Strait Islander peak bodies.
4. Governments adequately resourcing the implementation of the Agreement.
5. Governments writing implementation plans more strategically, in collaboration with Aboriginal and Torres Strait Islander people.

Indigenous Data Sovereignty needs to be recognised and supported

There is still significant delay to the implementation of Priority Reform 3 of the National Agreement. 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.

The failure of governments to make progress under this priority reform directly impacts actions taken under the others, as 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. In calling for action to recognise and support Indigenous Data Sovereignty, the Productivity Commission sets out the following essential actions:

1. Amend the Agreement to include Indigenous Data Sovereignty under Priority Reform 4.
2. Establishing a Bureau of Indigenous Data.

Mainstream government systems and culture need to be fundamentally rethought

Transforming government organisations is critical to removing the procedural and structural barriers to shared decision making, partnership and participation between governments and Aboriginal and Torres Strait Islander people. In Victoria, some of this work is being proposed to occur through Treaty, however there is a resounding concern that there is no transformation strategy to support Treaty realising these changes.

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Work to date focuses on small-scale actions within individual government departments or organisations, rather than the coordinate and systematic change required across government. These have included cultural capability training or strategies to increase employment of Aboriginal and Torres Strait Islander people 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:

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

Stronger accountability is needed to drive behaviour change

Current mechanisms for reporting on progress not just on the National Agreement, but also on investment and outcomes for Aboriginal and Torres Strait Islander people more generally is lacking. Performance reporting focuses heavily on activities and outputs, rather than on outcomes and change.

In Victoria, the Victorian Aboriginal Affairs Framework (VAAF) and the Victorian Government Aboriginal Affairs Report (VGAAR) are used to report on the outcomes under the National Agreement. However, the VAAF and the VGAAR fail to align with the National Agreement, resulting in misaligned reporting to give the illusion of progress. Without purpose-designed reporting Victoria cannot accurately demonstrate progress under the National Agreement, identify barriers to progress or levers to success.

Additionally, existing accountability frameworks have little in the way of 'bite' to compel government action and invoke consequences for failure. Although some individuals are effectively driving change within their areas of influence, there is no overarching force to ensure comprehensive and sustained systemic change. To strengthen accountability, the Review sets out the following essential actions:

1. Establishing the independent mechanism in each jurisdiction without further delay.
2. Embedding the commitments of the National Agreement on Closing the Gap in other inter-governmental Agreements.
3. Including a statement on Closing the Gap in every government organisation's annual report.
4. Publishing all the documents developed under the Agreement.

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Recommendation 2: The new Victorian Closing the Gap Implementation Plan outlines an ambitious reform agenda, to not only Close the Gap, but enable Aboriginal and Torres Strait Islander people to thrive.

Part 8 of the National Agreement outlines how it will be implemented across jurisdictions. Under this section, clause 96 provides that:

“The achievement of the outcomes relies on the way in which the Parties implement this Agreement to ensure sustained effort over the term of the Agreement. The Parties commit to preparing a rigorous Implementation Plan that responds to the differing needs, priorities and circumstances of Aboriginal and Torres Strait Islander people across Australia. The Parties agree the Implementation Plans will be fully aligned with this Agreement and state that their purpose is to implement the Agreement.”

Victoria’s current Implementation Plan has been extended beyond its initial 2021-2023 timeframe to now end in June 2025. The extension was granted to “allow time for ongoing consultation with First Peoples stakeholders to self-determine next steps in the development of a new implementation plan.”²

Ngaweeyan Maar-oo will lead and work with the Department of Premier and Cabinet to prepare the next implementation plan, to commence in July 2024. One of the core issues with the current plan, aside from it being out of date and failing to address the long-term social and economic impacts of the COVID-19 pandemic, is that it merely restates the National Agreement and retroactively applies current initiatives to acquit the actions required.

In the next iteration of the implementation plan, Ngaweeyan Maar-oo will work in partnership with the Victorian Government to ensure that the next plan is more ambitious and outlines a strategic roadmap to guide implementation now, through the Treaty transition and beyond.

There must be a shift from the deficit lens towards strengths-based investment and outcomes

The term social and emotional wellbeing (SEWB) captures the way in which Aboriginal and Torres Strait Islander people view the need for many elements to be balanced at a community and individual

² Victoria State Government, First Peoples – State Relations, *The Victorian Closing the Gap Implementation Plan* (Updated 2024) <<https://www.firstpeoplesrelations.vic.gov.au/victorian-closing-gap-implementation-plan>> [24 June 2024].

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level to achieve health and wellbeing.³ SEWB considers the health and wellbeing of a physically healthy, culturally intact and spiritually connected Aboriginal and Torres Strait Islander person.⁴

Despite the widely researched and understood detrimental effects of colonisation and past/ongoing policies on Aboriginal people broadly, a deficit narrative focusing on problems and ‘fixing what is wrong’ persists. Governments continue to design, fund and deliver services framed through a deficit lens, whereby Aboriginal and Torres Strait Islander people need to be on par with non-Aboriginal people, rather than celebrating and drawing on their cultural strength for better outcomes. Whilst this does address some of the impacts of colonial systems, it does nothing to disrupt the harm that it reinforces through mainstream service delivery, which perpetuate ongoing harm to Community.⁵

Research has demonstrated that deficit thinking is a barrier to improved outcomes for Aboriginal and Torres Strait Islander people.⁶ Perpetuating negative stereotypes and influencing the self-perception of Aboriginal and Torres Strait Islander communities can lead to an internalisation of these negative views, where generations of Aboriginal and Torres Strait Islander people are not supported to aim and achieve more. This contributes to a cycle of disadvantage, influencing data collection, budgeting and outcomes for the community. Deficit-based approaches have consistently failed to address or strengthen key elements of social and emotional wellbeing whilst contributing to the problematic assumption that Aboriginal people “*do not want to, or simply cannot, help themselves—that we are in fact the problem.*”⁷

‘Strengths-based approaches’ are a set of conceptual frameworks that seek to move away from this thinking, offering a different language for thinking about and discussing issues.⁸ This approach to policy and service delivery focuses on abilities, knowledge, and capacities rather than deficits or what is lacking. Ngaweeyan Maar-oo continues to advocate for this shift in language and thinking, aiming to embed it in government policy and service design and delivery to ensure that there is an investment in Aboriginal and Torres Strait Islander peoples’ potential.

This requires a conscious effort to decolonise existing structures, starting with governments but including healthcare, education and justice services. Decolonisation is integral to strengths-based policies and programs, actively shifting focus from Western and European worldviews to centre on Indigenous concerns, ways of knowing, and aspirations.⁹ Prioritising SEWB and emphasising connection to Country, culture, spirituality, ancestry, family, and community is essential to the wellbeing of Aboriginal and Torres Strait Islander Australians.

³ Brown, A., Mensah, F., Gee, G., & et al. ‘Evaluation of an Aboriginal and Torres Strait Islander strengths based coaching program: A study protocol’ (2021) BMC Public Health, 21, 1451. <<https://doi.org/10.1186/s12889-021-11503-3>> [24 June 2024].

⁴ Brown, A., Mensah, F., Gee, G., & et al. ‘Evaluation of an Aboriginal and Torres Strait Islander strengths based coaching program: A study protocol’ (2021).

⁵ Brown, A., Mensah, F., Gee, G., & et al.

⁶ Fogarty, W., Lovell, M., Langenberg, J., & Heron, M.-J., The Lowitja Institute, ‘Deficit discourse and strengths-based approaches: Changing the narrative of Aboriginal and Torres Strait Islander health and wellbeing (2018).

⁷ Brown, A., Mensah, F., Gee, G., & et al. ‘Evaluation of an Aboriginal and Torres Strait Islander strengths based coaching program: A study protocol’ (2021) BMC Public Health, 21, 1451. <<https://doi.org/10.1186/s12889-021-11503-3>> [24 June 2024].

⁸ Fogarty, W., Lovell, M., Langenberg, J., & Heron, M.-J. (2018). *Deficit discourse and strengths-based approaches: Changing the narrative of Aboriginal and Torres Strait Islander health and wellbeing*. The Lowitja Institute.

⁹ Brown, A., Mensah, F., Gee, G., & et al. ‘Evaluation of an Aboriginal and Torres Strait Islander strengths based coaching program: A study protocol’ (2021) BMC Public Health, 21, 1451. <<https://doi.org/10.1186/s12889-021-11503-3>> [24 June 2024].

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Focus must shift from intervention to prevention

The need for early intervention and prevention is evident in many sectors as demand for acute services grows. The Victorian Government has acknowledged that accessing help earlier reduces pressure on service systems and has introduced the Early Intervention Investment Framework (EIIF) in the 2021-22 State Budget as one tool to address this.¹⁰

The EIIF aims to shift the balance of investment towards earlier intervention, focus on measurable impact of outcomes and demand for acute services and reduce demand for and expenditure on intensive tertiary interventions.¹¹ The EIIF also aims to use the learnings of its investment and approach to scale up to achieve widespread system change, and actively involve the Department of Treasury and Finance, who oversee the budget process, in policy design and service delivery, in what is an effective example of strategic investment in avoided costs.

The objectives of the EIIF align with the elements of strong community-controlled sector as outlined by the National Agreement. More can be done to use the EIIF to invest in a dedicated and identified Aboriginal and Torres Strait Islander workforce, both within government and in the sector to sustain capability and capacity building and investment. Further, the EIIF provides an avenue to provide ACCOs with dedicated, reliable and consistent funding models that aim to maximise avoided costs by reducing overall tertiary and acute service expenses, but also provide opportunities to raise revenue through diverting investment to deliver increased social and economic engagement. The shift from tertiary and emergency service design and delivery also provides an opportunity for ACCOs to be engaged in strategic governance and policy development to positively influence service pathways.

Ngaweeyan Maar-oo would like to see the EIIF reach its full potential to deliver on the Sector Strengthening Plans under the National Agreement. Embracing the opportunity to deliver strong community-controlled elements across workforce, capital infrastructure, service provision and governance. There is also an opportunity to use the current measures under the EIIF to inform data collection and information to measure impact and inform design of new early intervention services. Current measures of intervention at crisis or 'end points' do not provide the right information to meet Community need before interventions are needed and further the deficit narrative. If we can close the social justice gap there will be economic benefits across all sectors.

This will require government to create economic levers that facilitate training, business development, education, and employment for Aboriginal and Torres Strait Islander people. The Yuma Yirramboi Aboriginal Employment Strategy from the Department of Jobs, Skills, Industry and Regions sets a precedent by committing to long-term investments in six strategic pillars: culture, people, business, wealth creation, jobs, and accountability. These pillars are essential for achieving economic parity and should be integrated into the broader national strategy. Addressing the social justice outcomes of closing the gap will not only improve the wellbeing of Aboriginal and Torres Strait Islander communities but will also yield economic benefits across various sectors, including child protection, health services, and the justice and legal systems. This approach will lead to cost savings and efficiency gains by reducing the overrepresentation of Aboriginal and Torres Strait Islander people in these systems and highlighting their role as contributors and achievers in the economy. The Yuma Yirramboi strategy highlights the importance of long-term, coordinated efforts to achieve these outcomes and provides a model that can be adopted on a national scale.

¹⁰ Victoria State Government, Department of Treasury and Finance, 'The early intervention investment framework' (August 2022).

¹¹ Victoria State Government, Centre for Excellence in Child and Family Welfare, 'The Early Intervention Investment Framework: A service sector perspective' (May 2022).

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Recommendation 3: The Victorian Government commits to building and investing in strong partnerships for shared-decision making

Priority Reform One commits the Parties to establishing robust structures that empower Aboriginal and Torres Strait Islander communities to actively participate in decision-making alongside governments.

Clause 32 of the National Agreement outlines the elements that must be present for strong partnerships. In particular, clause 32c defines the following elements for shared decision-making:

- i. by consensus, where the voices of Aboriginal and Torres Strait Islander parties hold as much weight as the governments
- ii. transparent, where matters for decision are in terms that are easily understood by all parties and where there is enough information and time to understand the implications of the decision
- iii. where Aboriginal and Torres Strait Islander representatives can speak without fear of reprisals or repercussions
- iv. where a wide variety of groups of Aboriginal and Torres Strait Islander people, including women, young people, elders, and Aboriginal and Torres Strait Islander people with a disability can have their voice heard
- v. where self-determination is supported, and Aboriginal and Torres Strait Islander lived experience is understood and respected
- vi. where relevant funding for programs and services align with jointly agreed community priorities, noting governments retain responsibility for funding decisions
- vii. where partnership parties have access to the same data and information, in an easily accessible format, on which any decisions are made.

The Priority Reform actions aim to build upon and strengthen the existing shared decision-making structures developed by Aboriginal and Torres Strait Islander people across the country, rather than replace them.

The Productivity Commission found that the power imbalance between governments and Aboriginal and Torres Strait Islander People is a persistent barrier to progressing the Reforms.¹² The Review acknowledges that partnerships, in a range of forms, are a familiar tool for governments and Aboriginal and Torres Strait Islander people and that many partnerships have successfully built trust and advanced community priorities. However, not all partnerships have managed to embed shared decision-making or overcome historical mistrust. The National Agreement, in providing clarity to how

¹² Productivity Commission, 'Review of the National Agreement on Closing the Gap', Study report, Volume 1, (Canberra: 2024) page 52.

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partnerships should operate and be funded, provides a scaffolding of minimum standards to be embedded going forward, particularly in relation to place-based and policy partnerships committed to under the National Agreement.

Self-determination needs to be a priority

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. The Productivity Commission notes that to achieve genuine partnership and shared decision-making, broader action across the other Priority Reforms must be taken to support the transformation needed.

“...certainly we have gone from an inclusionary conversation to partnership, but it's really about - self-determination's about that transfer of power and resources ultimately.”

—The Hon. Lily D'Ambrosio, Minister for Climate Action, Minister for Energy and Resources, Minister for the State Electricity Commission.

Self-determination is not articulated as an overarching objective of Priority Reform 1, nor is it reflected in its commitments. The United Nations Declaration on the Rights of Indigenous Peoples states:¹³

“Article 3 Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

“Article 4 Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.”

The Productivity Commission has called for the purpose and scope of Priority Reform 1 to be amended to clarify the purpose and broaden the scope of Priority Reform 1, recognising that power must be shared with Aboriginal and Torres Strait Islander people in order for decisions to be made jointly and to achieve the ultimate goal of self-determination, as agreed to in the UNDRIP. However, even if the Agreement is amended to explicitly state self-determination is necessary to the achievement of Priority Reform 1, real progress depends on broader changes within government structures. The Review found that governments often overlook or undervalue the impact of these systemic transformations despite their success.

¹³ United Nations, 'United Nations Declaration on the Rights of Indigenous Peoples – Articles 3 and 4 Self-determination' (2007) <https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf>.

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“The [Aboriginal Health and Wellbeing] Partnership Forum has been fundamental to how we plan and invest in Aboriginal health. I reference the urgent care pathway investment, that was a self-determined investment through the Partnership Forum.”

– Professor Euan Wallace, Secretary, Department of Health

Partnerships between government and ACCOs must be enshrined and protected

The Victorian Government has begun to shift towards working in partnership with Aboriginal and Torres Strait Islander people and organisations, rather than just consulting them briefly. However, more needs to be done to diversify those being worked with to get a holistic cross-section of expertise and experience, both at organisational and individual levels. In an ever-changing and evolving world, lived experiences of Aboriginal and Torres Strait Islander people vary based on a range of factors, including their location, family history and access to services.

The Productivity Commission found that where governments partnered with ACCOs during crises like the COVID-19 pandemic and acknowledged their expertise and ability to engage with Community, responses were more effective and positive outcomes were achieved. However, despite the success of these partnerships, they are not being consistently forged and maintained. Partnerships must be resourced as long-term investments.

Case Study: COVID-19 Response

During the COVID-19 pandemic, Aboriginal Community Controlled Health Organisations (ACCHOs) played a crucial role in mitigating health risks among Aboriginal and Torres Strait Islander communities in Australia. Facing disparities in healthcare access, ACCHOs filled communication gaps with culturally tailored resources.

Funded by the Victorian Government and led by Aboriginal health practitioners, ACCHOs effectively managed health crises by providing culturally safe healthcare environments. For instance, at Bendigo & District Aboriginal Co-operative, Aboriginal health practitioners led efforts that significantly boosted COVID-19 vaccination rates through community-centred approaches.

This case underscores the critical need for ongoing support of ACCHOs. Such support is essential for maintaining these positive health outcomes and advancing self-determination in Aboriginal and Torres Strait Islander health. By acknowledging and funding the role of ACCHOs in public health responses, governments can promote healthier communities and contribute to closing the gap.

The Productivity Commission's engagement with over 130 Aboriginal and Torres Strait Islander organisations revealed there has been 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 Agreement began, and efforts to review and strengthen them are ongoing but have not yet shown clear results.

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Partnership assessments and reviews have not effectively shown whether shared decision-making is being achieved. Only Queensland, Victoria, and the Australian Government have published such reviews, each using different criteria that do not consistently align with strong partnership principles. It was also unclear whether any Aboriginal and Torres Strait Islander partners participated in the assessments or who conducted them. Governments rate their partnerships as meeting standards, but details on assessment processes and Aboriginal and Torres Strait Islander involvement are not disclosed, limiting the Commission's ability to evaluate partnership quality and shared decision-making.

Ngaweeyan Maar-oo has seen shared-decision making and partnerships work, for example in Treaty and during the COVID-19 pandemic, but we are strongly urging the Victorian Government to do more to embed and enshrine these partnerships in their processes, policies and legislation. We are calling to be seen as equal partners in determining how governments invest in our communities, as experts in how proposed laws and policies impact our Community and to work together to drive change and create better outcomes.

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The Closing the Gap Partnership Forum must be strengthened

Ngaweeyan Maar-oo is the Victorian Government implementation partner under the National Agreement. The Partnership Forum is the formal means of coordinating input from across a range of governance forums and sector representatives, but there is still a shortcoming in representing regional and rural voices.

In 2023, the Partnership Forum introduced quarterly departmental reporting on implementation of the four Priority Reforms, including action to improve shared decision-making and accountability. However, there is still much to be done to move beyond activity and output reporting towards outcomes. Ngaweeyan Maar-oo is advocating for the Partnership Forum to be elevated from a routine meeting to a true shared-decision making body, overseeing critical work, discussing strategic priorities and reforms and working together to identify issues, opportunities and solutions.

The Victorian Government acquitted its commitment under clause 36 of the National Agreement to conduct reviews in 2022 and 2023 of its partnership arrangements to assess how they meet the partnership elements at clauses 32 and 33. The review found that Aboriginal Governance Forums have largely met the partnership elements,¹⁴ but there is concern that the self-assessment may not reflect ACCOs true experiences.

Victoria's 2023 partnership stocktake was submitted to Joint Council and will be critically considered alongside all jurisdictional reviews. The National Agreement parties will develop a plan to implement the recommendations of the 2023 Partnership Health Check Report and improve the utility of the Partnership Health Check model. Ngaweeyan Maar-oo is committed to conducting its own health checks, both with government departments and ACCO members to fully inform the recommendations and how they will be implemented in Victoria.

Ngaweeyan Maar-oo wishes to note that despite the Partnership Forum being the formal mechanism, there needs to be partnership with Victorian Government ministers, not just bureaucrats.

Ngaweeyan Maar-oo recommends strengthening the Partnership Forum Agreement and Terms of Reference to enhance monitoring and accountability aligned with the Implementation Plan. In its current iteration the Implementation Plan lacks oversight by the Partnership Forum, which is essential for accountability. The Forum's Terms of Reference should be updated to reflect the Productivity Commission's recommendation priority action areas, emphasising the essential actions including ensuring regular ministerial meetings with Aboriginal and Torres Strait Islander peak bodies, adequately resourcing Agreement implementation, and collaboratively developing strategic implementation plans with Aboriginal and Torres Strait Islander communities.

The Productivity Commission makes a similar recommendation for Government Ministers to meet regularly with relevant Aboriginal and Torres Strait Islander peak bodies and hear directly from Community on their priorities and perspectives before making decisions. The Productivity Commission emphasises the importance of meeting with Ministers with no departmental representatives in the room. Whilst Ngaweeyan Maar-oo has a good relationship with the departments we work with, we support this action to ensure that there is a more equal balance of power in these partnerships.

¹⁴ Victoria State Government, First People – State Relations, 'Victorian Government Aboriginal Affairs Report' (Victoria: 2024), pg 20.

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Investing in policy and place-based partnerships is crucial to leverage local and specialised expertise

Clause 30 of the National Agreement identifies two forms of partnerships: policy partnerships and place-based partnerships. These are defined in the National Agreement as follows:

Policy partnerships are partnerships created for the purpose of working on discrete policy areas, such as education, health or housing.

Place-based partnerships are partnerships based on a specific region, between government and Aboriginal and Torres Strait Islander representatives, and others by agreement, from those specific areas.

Clause 31 outlines the purpose of these partnerships, and clause 32 sets out the key partnership elements for strong partnerships. However, Clause 33 states that “adequate funding is needed to support Aboriginal and Torres Strait Islander parties to be partners with governments in formal partnerships”. The New South Wales Government recently committed \$220 million to implement the Closing the Gap Implementation Plan from 2022 to 2024, alongside a new funding model tailored for First Nations peoples.¹⁵ This substantial investment highlights a proactive approach that the Victorian Government could look towards to adequately fund the National Agreement. Ngaweeyan Maar-oo will continue advocating for increased funding in the State Budget and collaborate with the Victorian Government to ensure Victoria receives equitable funding allocations from the Commonwealth.

Policy partnerships

Clause 38 of the National Agreement established five policy partnerships to identify opportunities to work more effectively, reduce gaps and duplication, and improve Closing the Gap outcomes. These are:

- Justice Policy Partnership, established in 2021.
- Social and Emotional Wellbeing (Mental Health) Policy Partnership, established in 2022.
- Early Childhood Care and Development Policy Partnership, established in 2022.
- Aboriginal and Torres Strait Islander Languages Policy Partnership, established in 2023.
- Housing Policy Partnership, established in 2023.¹⁶

Progress on the policy partnerships has been slow.¹⁷ For example, the Justice Policy Partnership (JPP) was established to make recommendations to reduce over-incarceration. The JPP work plan sets out 11 action items to achieve this. However, despite being the longest running policy partnership, only two of the 11 actions have been implemented so far.¹⁸

Views on the effectiveness of the JPP are varied, however, some of the issues raised with the Commission included lack of support for Aboriginal and Torres Strait Islander participation in the JPP, insufficient representation of Aboriginal and Torres Strait Islander people with lived experience in the

¹⁵ New South Wales Government, Aboriginal Affairs, ‘NSW Closing the Gap Implementation Plan 2022-2024’ (New South Wales: 2022). <[https://www.aboriginalaffairs.nsw.gov.au/media/website_pages/closingthegap/nsw-implementation-plan/2022-24-implementation-plan/NSW-Closing-the-Gap-Implementation-Plan-2022-2024-\(4\)-accessible-Updated-\(1\).pdf](https://www.aboriginalaffairs.nsw.gov.au/media/website_pages/closingthegap/nsw-implementation-plan/2022-24-implementation-plan/NSW-Closing-the-Gap-Implementation-Plan-2022-2024-(4)-accessible-Updated-(1).pdf)> [24 June 2024].

¹⁶ Victoria State Government, First People – State Relations, ‘Victorian Government Aboriginal Affairs Report’ (Victoria: 2024), pg 20.

¹⁷ Productivity Commission, ‘Review of the National Agreement on Closing the Gap’, Study report, Supporting paper, Volume 2 (Canberra: 2024), page 43.

¹⁸ ‘Review of the National Agreement on Closing the Gap’, Study report, Supporting paper, Volume 2 (Canberra: 2024), page 44.

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justice system and its governance structure fails to coordinate government actions or to enhance accountability.¹⁹ The Review suggests structural reforms are required if the JPP and other policy partnerships are to be more than forum to foster relationships.²⁰

Place-based partnerships

Clause 39 sets out the commitment for six place-based partnerships across Australia. In 2023, Ngaweeyan Maar-oo members and the CTG Partnership Forum endorsed Gippsland as the nominated location for a place-based partnership in Victoria. The Victorian Aboriginal Child Care Agency (VACCA) identified Gippsland as a region with high demand for early childhood, child protection and justice services.²¹

The Victorian Aboriginal Child Care Agency (VACCA) is leading the development of a detailed project proposal for consideration by the Partnership Forum in 2024, to inform a 2024-25 State Budget submission to fund the partnership. The proposal, with strong local Aboriginal leadership, will be developed in partnership with local communities, key sector representatives and across governments to identify and local priorities.

Ngaweeyan Maar-oo is committed to ensuring that the place-based partnership complies with clause 32 of the National Agreement and will continue to advocate for it to be funded in accordance with the requirements set out in clause 33 of the National Agreement.

This place-based partnership is also the location for one of the six Australian data projects, committed to under clause 74 of the National Agreement. This is discussed in more detail under Recommendation 6.

Achievement of the Priority Reforms is essential to activate Treaty

In 2016, the Victorian Government committed to entering Treaties with First Peoples, both Statewide and with local Traditional Owner groups. This commitment reflects that self-determination can be exercised by all Aboriginal and Torres Strait Islander people in Victoria collectively, and with respect to their local and individual needs.²²

The First Peoples' Assembly is the independent and democratically elected body recognised under the Advancing the Treaty Process with *Aboriginal Victorians Act 2018* (Vic) as the Aboriginal Representative Body that represents all First Peoples in Victoria in the Treaty process.²³

Victoria is in a unique situation, with the roll out of commitments under Closing the Gap coinciding with the commencement of Treaty negotiations. It is crucial to recognise that fulfilling the Victorian Government's commitments under the 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.

¹⁹ Productivity Commission, 'Review of the National Agreement on Closing the Gap', Study report, Supporting paper, Volume 2 (Canberra: 2024), page 44.

²⁰ Productivity Commission, 'Review of the National Agreement on Closing the Gap', Study report, Supporting paper, Volume 2 (Canberra: 2024), page 44.

²¹ Victoria State Government, First People – State Relations, 'Victorian Government Aboriginal Affairs Report' (Victoria: 2024), pg 19.

²² 'Victorian Government Aboriginal Affairs Report' (Victoria: 2024), pg 18.

²³ 'Victorian Government Aboriginal Affairs Report', pg 18.

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The failure to recognise the criticality of the commitments under the National Agreement for effecting Treaty has resulted in it being deprioritised by the Victorian Government in terms of investment and policy focus. Ngaweeyan Maar-oo has repeatedly stated that Treaty should not serve as the default mechanism for discussions related to Closing the Gap, nor should action under the National Agreement be delayed for Treaty and Truth processes. It is imperative that both Closing the Gap and Treaty are invested in together to maximise outcomes for Aboriginal and Torres Strait Islander Victorians.



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Recommendation 4: The Victorian Government must provide reliable, long-term funding for ACCOs to develop Aboriginal workforces, support reforms, and strengthen the sector in line with Priority Reform 2

Clause 42 of the National Agreement commits parties to build “formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap”.

The National Agreement accepts that services delivered by ACCOs achieve better results, employ more Aboriginal and Torres Strait Islander people and are often preferred over mainstream services (Clause 43), but that community control an act of self-determination (Clause 44). Services delivered by ACCOs achieve better results, employ more Aboriginal and Torres Strait Islander people and are often preferred over mainstream services (Clause 43).

“I am committed to placing more Aboriginal health care in Aboriginal hands. Not just because it is the right thing although it is the right thing, but because it works.”

– Professor Euan Wallace, Secretary Victorian Department of Health

Under Clause 45 of the National Agreement, Parties agree that elements of a strong sector are where:

- a. there is sustained capacity building and investment in Aboriginal and Torres Strait Islander community-controlled organisations which deliver certain services and address issues through a set of clearly defined standards or requirements, such as an agreed model of care
- b. there is a dedicated and identified Aboriginal and Torres Strait Islander workforce (that complements a range of other professions and expertise) and where people working in community-controlled sectors have wage parity based on workforce modelling commensurate with need
- c. Aboriginal and Torres Strait Islander community-controlled organisations which deliver common services are supported by a Peak Body, governed by a majority Aboriginal and Torres Strait Islander Board, which has strong governance and policy development and influencing capacity
- d. Aboriginal and Torres Strait Islander community-controlled organisations which deliver common services have a dedicated, reliable and consistent funding model designed to suit the types of services required by communities, responsive to the needs of those receiving the services, and is developed in consultation with the relevant Peak body.

The Productivity Commission’s Review found that the power imbalance between governments and Aboriginal and Torres Strait Islander people persists as a barrier to progressing the Reforms.

Aboriginal Community-Controlled Organisations need funding certainty

It has been a longstanding issue that ACCOs are not being consistently or adequately funded to deliver services to Aboriginal and Torres Strait Islander people.

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Many ACCOs were initially funded by private donations and operated by volunteers to provide critical services to Aboriginal and Torres Strait Islander people. Governments have since funded ACCOs under service agreements and grants programs to deliver specific and often short-term programs within Community. However, several key issues remain:

1. ACCOs are often in competition with mainstream service providers for funding to support Aboriginal people.
2. Funding is typically allocated on a per capita basis, rather than a needs basis or appropriate economic weightings.
3. Funding contracts are often short-term, limiting ACCOs operational and strategic planning capacity
4. Overly prescriptive guidelines constrain ACCOs from flexibly responding to the needs of community members
5. The piecemeal approach to funding results in burdensome reporting to acquit inflexible KPIs

An example was reported by the Victorian Aboriginal Community Controlled Health Organisation²⁴ (VACCHO) to the Yoorrook Justice Commission that 'Rumbalara Aboriginal Co-operative held 48 separate funding agreements with 12 agencies (five Victorian government departments, three Australian Government departments, three government-funded not-for profit agencies and one other agency) for services to be delivered in the financial year of 2013-2014. This arrangement required 409 reports against 46 of these agreements. A further two agreements required data to be reported into a database that can be accessed at any time by the funder. The number of agreements per funding body arranged from 1 to 12 and the number of reports from 1 to 137 and despite the report being conducted 10 years ago nothing has changed."

To address these, Ngaweeyan Maar-oo continues to advocate for single line funding, streamlining not only the allocation of funds to individual ACCOs, but also the reporting requirements associated. This means that ACCOs have more capacity to do the work they are funded to do and participate in more strategic policy. Ngaweeyan Maar-oo advocates for minimum-term funding agreements that span years, to give ACCOs the certainty needed to meet demand, deliver long-term reforms and retain workforce.

There also needs to be a shift from per capita funding, which is based on the proportion of Aboriginal and Torres Strait Islander people to needs based funding that is targeted at preventions and sufficiently addressed multiple and complex needs. Per capita allocation results in critical underfunding of the ACCO sector, forcing competition over small amounts of money, largely targeted at critical interventions. Not all money for Aboriginal programs is committed to ACCOs, meaning non-Aboriginal and mainstream organisations are able to apply for funding to deliver services to Aboriginal people without the expertise, experience and cultural safety frameworks in place.

This is further exacerbated by overly prescriptive funding guidelines which deem ACCOs ineligible or out of scope. This is explored more under the heading 'Current sectors need to be reimaged'.

²⁴ Victorian Aboriginal Community Controlled Health Organisation, 'Yoorrook Justice Commission – Health and Healthcare Housing and Homelessness Education: Funding' (2024), pg 53, <<https://yoorrookjusticecommission.org.au/document-library/submission-victorian-aboriginal-community-controlled-health-organisation-2/>> [24 June 2024].

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There needs to be targeted investment in skills, workforce development and respite

As discussed briefly in the context of shared decision-making and the transfer of power from government to Aboriginal and Torres Strait Islander peoples, there needs to be a workforce able to exercise the decision making and transferred powers. Consequently, there needs to be targeted investment in to develop and maintain a skilled, qualified and supported workforce in the ACCO sector, and in mainstream sectors who interact with Aboriginal and Torres Strait Islander people.

"We have committed to work with First Peoples leaders and organisations to enable the development of a culturally attuned Child Protection and community services workforce, both in ACCOs and in mainstream services, so that First Peoples children and families have a choice of appropriate service options

'I am motivated by the work of this Commission, and by the opportunity to meaningfully grapple with the legacies of colonialism and dispossession'

'First Peoples children have the right to live safely with their family, connected to their community and country. First Peoples children have the right to know their identity and practice their culture. First Peoples families rightfully expect the support of Government to uphold their fundamental human rights.'

– Minister Lizzie Blandthorn, Minister for Children

We have previously drawn on section 18 of the *Children, Youth and Families Act 2005* (Vic) and the 'Aboriginal Children in Aboriginal Care' program as an example of transferred power.

The Government has been made aware of Aboriginal workforce shortages for years, with chronic underfunding impacting continuity of care, sustainability and workforce retention.²⁵ There is an alarming lack of progress to address the overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care. This includes the rising proportion of children being removed as infants without placement with kin, prolonged stays in care without reunification plans, and inadequate support for ACCOs operating in this space, including Bendigo & District Aboriginal Co-operative and the Victorian Aboriginal Child Care Agency. Despite significant spending on removals, there remains insufficient investment in family support services that could prevent these removals. ACCOs face inconsistent resourcing and support, contributing to poor outcomes for Aboriginal and Torres Strait Islander children in state care.

The Victorian Aboriginal Child Care Agency²⁶ (VACCA, 2022 page 90) reported their concerns on the removal rate of Aboriginal children, in particular Aboriginal babies. Despite the Closing the Gap Target 12 outlined in the National Agreement, there is no evidence to support Victoria will achieve the target by 2031, in fact the over-representation of Aboriginal Children in Out of Home Care will have increased.

²⁵ SNAICC – National Voice for our Children, 'Family Matters – Strong communities. Strong culture.' (2023) <<https://www.snaicc.org.au/family-matters-report>> [24 June 2024].

²⁶ Victorian Aboriginal Child Care Agency (VACCA), 'Yoorrook – Nuther-mooyoop on Systemic Injustice in the Child Protection and the Criminal Justice Systems' (2022) <https://www.vacca.org/content/Document/VACCA_Submission_Yoorrook_Dec%202022%20PUBLIC.pdf> [24 June 2024].

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VACCA states that evidence demonstrates that with adequate policy attention and resourcing towards prevention rather than protective intervention into ACCOs is a viable solution.

“Need to put a stop to this pattern. If we learn from what we know is true government and mainstream providers can get closer to the Aboriginal solutions achieved. The Inside Policy Review (2019) found that – VACCA has a 24% reunification rate on long term orders as compared to 5% by government which has improved to 12%. But still the double the reunification rate of government. Imagine 2600 children if VACCA had control almost 50% would be returned home, stay at home and stay safely.”

– Aunty Muriel Bamblett

Supporting the workforce must extend beyond service delivery to consider the wellbeing of its members. Aboriginal and Torres Strait Islander staff in ACCOs need access to respite, additional leave, counselling, and other supports to manage vicarious trauma and prevent burnout. There also needs to be better resources to manage and reduce the cultural load placed on Aboriginal and Torres Strait Islander staff, which can include the expectation to educate non-Aboriginal people, participate in advisory boards or work in racist systems.

Secondly, despite moves to professionalise some social services, there is still a major pay gap between these sectors and other professional services, such as law, finance and STEM.²⁷ This pay gap is notably wider for Aboriginal and Torres Strait Islander people, especially working in ACCOs which are critically underfunded. As part of workforce development, there needs to be targeted investment across the skills pipeline – from primary and secondary education in schools, to vocational education in TAFEs and tertiary education in universities. Access to scholarships must be increased to allow Aboriginal and Torres Strait Islander people to access the right education at the right time. Increased flexibility is needed for skills training to better engage people in regional areas and those with work or caring responsibilities. Options include online and hybrid learning and paid placements. Investing in the skills of the workforce not only enables greater quality of service delivery, but also provides opportunities for economic mobility and development of those providing the service.

Investing in the Aboriginal and Torres Strait Islander workforce invests in Community.²⁸ It is one example of how the skills pipeline builds economic independence and mobility, improving SEWB and health outcomes.

²⁷ Victoria State Government, Commission for Gender Equality in the Public Sector, *'Intersectionality at work: building a baseline on compounded gender inequality in the Victorian public sector'* (Victoria: 2023).

²⁸ Bailey, J., Blignault, I., Carriage, C., Demasi, K., Joseph, T. -L., Kelleher, ... Williams, M, *'We Are working for our People: Growing and Strengthening the Aboriginal and Torres Strait Islander Health Workforce: Career Pathways Project Report'* (2020) <https://www.lowitja.org.au/content/Image/Career_Pathways_Report_Working_for_Our_People_2020.pdf> [24 June 2024].

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The community-controlled sector has expertise that must be incorporated in strategic reform

Current government approaches to commissioning do not recognise the value of ACCOs' expertise in developing culturally safe service models. The Productivity Commission also found that ACCOs are under-utilised in decision-making and have insufficient input into service design and delivery, despite their expertise in culturally safe service design and delivery.

"This is our business; we are the experts in our business. We didn't create the problems, but we know the solutions."

– Uncle Alan Brown, Victorian Aboriginal Health Service

ACCOs are often narrowly viewed as operational entities, who deliver required services rather than providing strategic advice to government. This view is further exacerbated by funding shortfalls and insecurity, limiting ACCO capacity to deliver critical services. Failure to support ACCOs to participate in co-design limits the effectiveness of government policy and undermines self-determination. The absence of Aboriginal-led input, based on lived experience and cultural understanding continues to result in governments maintaining control over important program elements, opting for business-as-usual approaches with generic models and narrow reporting requirements, rather than allowing ACCOs to innovate and design services that align with community needs.

Currently, Ngaweeyan Maar-oo represents the sector in policy development and service design and delivery as it relates to the National Agreement. However, individual ACCOs need to have increased access to broader government consultation and co-design processes and be supported to participate not only in immediate policy and service reforms, but long-term strategic work that impacts generations to come.

Current intervention-based sectors need to be reimagined

Under the National Agreement, Sector Strengthening Plans (SSPs) are the key mechanism to achieve Priority Reform Two. Outlined in clauses 48 to 57, SSPs aim to build the capacity of specific sectors prioritised by the Joint Council. Initial SSPs were identified under clause 50 to target four sectors: early childhood care and development (ECCD), housing, health, and disability. As previously mentioned, the SSPs were to be aligned to community-control sector elements and focus on four key streams: workforce, capital infrastructure, service provision, and governance. Clauses 51-53 allow for additional sectors for SSPs to be identified. Since the National Agreement was signed an additional SSP has been committed to for languages & culture.²⁹ The submission has discussed the shift from a deficit perspective to a strengths-based approach to service delivery. The SSPs provide the perfect opportunity to drive this change.

The Productivity Commission criticised SSPs for vague goals, undefined timeframes, and a lack of accountability. The National Sector Strengthening Strategic Plan leaves funding decisions to jurisdictions, such as Victoria's \$3.3 million commitment over four years, distributed to Ngaweeyan Maar-oo without tools clear guidance.

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“Investment by the Victorian government has been made at the tertiary end of the system. We have 20% of children in care but we get 7% of funding from family services - where is the investment going?”

– Aunty Muriel Bamblett

The government’s narrowly defined sectors stifle innovative service design and delivery, as highlighted by the case study of Bubup Wilam Aboriginal Child and Family Centre. We call for a collaborative commissioning process that empowers ACCOs and adopts a strengths-based model. This approach should shift from crisis intervention to life stage approaches, establishing new sectors, and encouraging innovation through alternative governance and funding models. Supporting wraparound services in housing, health, early development, and education is crucial for meaningful progress. To truly strengthen the ACCO sector, we need to adopt a strengths-based model, utilising Sector Strengthening Plans as the mechanism.

“We need Healing Centres like Balit Durn Durn, where we can work on mental health and Social and Emotional Wellbeing issues our way, that are not restricted by ridiculous data sets or episodes of care that just don’t work.”

– Professor Graham Gee

Case Study: Bubup Wilam Aboriginal Child and Family Centre

Bubup Wilam is a National NAIDOC Week award-winning service that delivers wraparound care for children and families as both a long daycare and kindergarten program. Bubup Wilam employs a doctor who conducts health checks with an Aboriginal health worker, and offers NDIS speech therapy and children's mental health counselling. Each day begins with a smoking ceremony, raising the flag, and acknowledging country, emphasising the child's identity and setting a solid foundation for school.

Lisa Thorpe, CEO of Bubup Wilam, explains, "The biggest focus is about the child's identity, who they are—this is the first so-called institution outside of their homes... They know how to acknowledge country, their basic skills for the rest of their life—they're going into schooling and saying 'why don't you raise the flag?' They are taking the next lead about changing the way they do their business. That's our measure of success, when we see how strong our kids go into the school systems."

Bubup Wilam exemplifies how innovative and culturally-centered approaches can lead to meaningful long-term transformation, yet is left out of funding in Victoria as the centre is not recognised as part of the early childhood and early years development sector.

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Recommendation 5: A clear transformation strategy needs to be developed in Victoria

Clause 58 of the National Agreement's commits parties to the “systemic and structural transformation of mainstream government organisations”. At clause 59, the six core transformation elements are set out as follows:

- identify and eliminate racism
- embed and practice meaningful cultural safety
- deliver services in partnership with Aboriginal and Torres Strait Islander organisations, communities and people
- increase accountability through transparent funding allocations
- support Aboriginal and Torres Strait Islander cultures
- improve engagement with Aboriginal and Torres Strait Islander people.

The National Agreement on Closing the Gap mandates a range of jurisdictional actions to eliminate institutionalised racism and promote cultural safety within mainstream government institutions. These include challenging unconscious biases and ensuring policies and programs align with the Agreement's goals, engaging with Aboriginal and Torres Strait Islander peoples especially during emergencies, and annual reporting on transformation efforts to ensure accountability. However, what this looks like in practice or when this will occur has not been set out. For example, Victoria established an Anti-Racism Taskforce in June 2021, but there is still no Anti-Racism Strategy in place. It is not clear whether this strategy is intended to align with the National Agreement or how it will assess outcomes. Like other government strategies, there is a high risk that in trying to do too many things, the Anti-Racism Strategy will fail to deliver on any.

The key action is the identification, development or strengthening an independent mechanism, or mechanisms, that will support, monitor, and report on the transformation of mainstream agencies and institutions. The National Agreement mandated this to have occurred by 2023. This has yet to happen. Victoria is in a unique context compared to other jurisdictions as we are about to commence Treaty negotiations, with the first Treaty expected to be agreed in 2025. Part of the negotiations will consider the development of accountability mechanisms. Whilst this is a huge milestone for Victoria, Treaty itself will not transform government without the necessary supports in place. Further, it will not necessarily have the remit or scope necessary to acquit the functions and purpose under the National Agreement.

Government organisations need to be clearly defined

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.

This oversight presents a clear scoping issue for the scale of change required, and how it will be implemented. 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.

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“I don’t feel confident that the Boards running our hospitals have sufficient understanding of impacts the lack of cultural safety is having in their hospitals.”

– Minister Mary-Anne Thomas, Minister for Health

Given the intersection of Aboriginal and Torres Strait Islander people have with many of these services, it would be expected that the actions under Priority Reform 3 extends to these services, particularly as it relates to identifying and eliminating racism, embedding and practicing meaningful cultural safety, supporting Aboriginal and Torres Strait Islander cultures and improving engagement with Aboriginal and Torres Strait Islander people.

By looking beyond organisations who make decisions and policies, to those who implement them enables greater whole of system transformation, especially in local areas.

Accountability needs to be embedded in all processes and supported by a variety of mechanisms

All jurisdictions agreed to implementing an independent mechanism to hold governments to account as they work towards the National Agreement targets. As per the Productivity Commission’s review into the National Agreement on Closing the Gap, no jurisdiction has met the deadline of December 2023.

The *Victorian Aboriginal Authority: an initial feasibility study for discussion* undertaken by VACCHO and the Lowitja Institute showed a “clear accountability gap” and called for a “permanent, dedicated Aboriginal-led entity with independent power”, such as an Aboriginal Productivity Commission to oversee government decisions that impact Indigenous people.

Existing accountability mechanisms are deemed insufficient, lacking ‘bite’ and effective consequences for governments that fail to meet their obligations. Priority Reform 3 specifically mandates a transformation of mainstream government operations to ensure accountability and cultural responsiveness to Aboriginal and Torres Strait Islander peoples’ needs, impacting over 2.4 million public sector workers and billions of dollars in funded services annually. This is a major commitment that requires a commensurate response.³⁰

Despite small pockets of good practice, many government sectors continue operating under a business-as-usual approach, failing to grasp the scale of transformation required to fulfill the Agreement.³¹ The Commission recommends breaking away from business-as-usual practices and leveraging the knowledge and expertise of Aboriginal and Torres Strait Islander people, organisations and communities to identify and address institutional racism and unconscious bias within government systems.

The Productivity Commission calls for action, advocating for the implementation of independent mechanisms to ensure accountability and transparency in transformation efforts. It calls for every government department to develop clear, documented strategies outlining how they will achieve the required transformation specified in the Agreement. These strategies must articulate goals, track

³⁰ Productivity Commission, ‘*Review of the National Agreement on Closing the Gap*’, Study report, Supporting paper, Volume 2 (Canberra: 2024).

³¹ Productivity Commission, ‘*Review of the National Agreement on Closing the Gap*’.

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progress, and demonstrate tangible outcomes towards systemic change. Overall, the review underscores the critical need for governments to move beyond rhetoric, implement comprehensive transformation strategies, and genuinely collaborate with Indigenous communities to achieve meaningful outcomes. It also requires moving beyond inefficient self-assessment methods that fail to adequately reflect the perspectives and priorities of the communities served and actively engaging with and integrating feedback from Community into their systems and operations to ensure they are fit for purpose.

“We know our community; we’re the ones that have our fingers on the pulse for their needs and requirements, but most of the time we’re not at the table, not at the conversation.”

– Simon Flagg, Wathaurong Health Service

Movement towards the development and implementation of Victoria’s independent mechanism has been impacted by the Treaty negotiation process. The Victorian Aboriginal Affairs Framework (VAAF) had outlined that the independent mechanism would be negotiated through Treaty. This decision was made prior to Ngaweeyan Maar-oo’s formation and was not reviewed after the structure of the Closing the Gap Partnership was finalised. Since this decision was made, Ngaweeyan Maar-oo and the First Peoples’ Assembly of Victoria have committed to working together to develop the mechanisms needed to satisfy their respective requirements. However, the current proposed Treaty negotiation timeline, means that there is still significant work to be done to design an independent mechanism in Victoria, and that it will not be set up by the end of the year.

However, this emphasises the need for changes to be made to existing processes and mechanisms so that they can support the transition to new mechanism/s and ensure there are accountability measures in place throughout the transition. To date, based on the quarterly reports prepared by departments for Ngaweeyan Maar-oo, only four have mentioned transformation strategies. However, these still fail to articulate a clear, whole-of-government vision for what transformation looks like (including across organisations), let alone adopt a strategy to achieve that vision or tracked the impact of actions within the organisation (and in the services that it funds) towards that vision.

Cultural safety must be maintained

More needs to be done to embed cultural safety practice in legislation and policies, like the Statement of Recognition that was passed under the *Children and Health Legislation Amendment Act 2023*. This statement recognised that Aboriginal people are best placed to make decisions and deliver services that protect the best interests of Aboriginal children. It enables the role of Aboriginal agencies delivering children and family services to be expanded, with the goal of reducing the over-representation of Aboriginal children in care in Victoria. It is a critical step to changing how systems and services work. Treaty presents an opportunity to further embed cultural safety, however, there needs to be more onus on organisations to assess and address their own cultural safety as it relates to their staff, clients and services.

Some Victorian Government departments have commenced internally delivered cultural safety training as part of the employee induction process. Others, like DFFH have engaged the University of Melbourne to deliver a series of micro-certifications across a range of areas including Treaty as part of

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their commitment to improving cultural safety. The main issue with the current approach to cultural safety within government organisations, is that it is inconsistent, sporadic and heavily relies on the actions of individual employees, rather than the broader organisation. The training available focuses on providing information and examples of good practice, rather than evaluating how cultural safety is applied in practice.

Cultural capability training and employment targets are not enough. Whilst employing more Aboriginal and Torres Strait Islander people in the public sector can enhance understanding and appreciation of our culture, history, and skills, it does not directly address systemic racism or unconscious bias. It is crucial that the government embeds responsibility for improving cultural capability and fostering genuine relationships with Aboriginal and Torres Strait Islander peoples into public sector employment requirements. This commitment should not place the burden on Aboriginal and Torres Strait Islander employees to address racism within their workplaces. The government must act to alleviate the cultural load and put effort towards a truly inclusive and respectful public sector environment.

“While public housing was available, Aboriginal people had difficulty getting access, and then staff who were working within departments do not understand Aboriginal people, and the history, the trauma, the institutionalisation, and how that impacts the way people live.”

– Darren Smith, Aboriginal Housing Victoria

Cultural safety also requires the decolonialisation of systems and structures to address institutional racism. Related to shared decision making and strengthening the ACCO sector under previous priority reforms, the government must deeply examine its own systems, structures, and operations to confront institutionalised racism and fundamentally change its decision-making approach, which has consistently overlooked the priorities, cultures, and knowledge of Aboriginal and Torres Strait Islander peoples.

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Recommendation 6: The Victorian Government must prioritise collecting and sharing local, disaggregated data

Clause 69 of the National Agreement highlights the importance of shared access to location-specific data and information to support the first three Priority Reforms by:

- Focusing on establishing equal partnerships with equal access to all processes and information to support Priority Reform One
- Empowering the community to drive their own development by making evidence-based decisions on policies and programs, to achieve Priority Reform Two
- Measuring the transformation of government organisations to be more accountable for Closing the Gap and achieving Priority Reform Three

Indigenous data has been defined as information about Indigenous Peoples or their knowledge systems, customs, resources or territories or information that impacts Indigenous lives at the collective and/or individual level.³²

Clause 71 of the National Agreement outlines four essential data and information sharing elements:

The Parties agree that data and information sharing practice elements between governments and Aboriginal and Torres Strait Islander communities and organisations contain the following features:

- a. There are partnerships in place between Aboriginal and Torres Strait Islander representatives and government organisations to guide the improved collections, access, management and use of data to inform shared decision-making for the benefit of Aboriginal and Torres Strait Islander people.
- b. Governments agree to provide Aboriginal and Torres Strait Islander communities and organisations access to the same data and information on which any decisions are made, subject to meeting privacy requirements, and ensuring data security and integrity.
- c. Governments collect, handle and report data at sufficient levels of disaggregation, and in an accessible and timely way, to empower local Aboriginal and Torres Strait Islander communities to access, use and interpret data for local decision-making
- d. Aboriginal and Torres Strait Islander communities and organisations are supported by governments to build capability and expertise in collecting, using and interpreting data in a meaningful way.

In addition to increasing the transparency of data, sharing available disaggregated data, establishing data sharing partnerships and building the capacity of Aboriginal and Torres Strait Islander

³² Lovett, R., Lee, V., Kukutai, T., Cormack, D., Rainie, S. C., & Walker, J, 'Indigenous data sovereignty: Toward an agenda – 2: Good data practices for Indigenous data sovereignty and governance' In M. Walter & A. Andersen (Eds.), (ANU Press:2019) pg 23-43, <<https://press.anu.edu.au/publications/series/indigenous-data-sovereignty/toward-agenda>> [24 June 2024].

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organisations to collect and use data, governments also committed to establishing community data projects in up to six locations by 2023.

Reform is needed to increase the availability of disaggregated data and information

As noted by the Productivity Commission, the National Agreement does not explicitly reference or define Indigenous Data Sovereignty (IDS). In recent years, the concept of Indigenous Data Sovereignty (IDS) has gained traction across Australia.³³ Ngaweeyan Maar-oo draws on the definition of IDS used by Yoorrook in this submission, where “Indigenous Data Sovereignty is the right of Indigenous Peoples to own, control, access and possess data that derive from them, and which pertain to their members, knowledge systems, customs, resources or territories”.

Indigenous Data Governance (IDG) refers to the mechanisms that support Indigenous decision-making using Indigenous data, including data control, collection, interpretation, access, storage, and use. Exercising IDG empowers Indigenous peoples and their governing bodies to accurately reflect their stories and make informed decisions to support their communities and aspirations.

The Productivity Commission found that there have been no large-scale changes in how governments engage and share data under Priority Reform 4. The few changes made have primarily focused on increasing the sharing of existing government-held data, which is insufficient for providing the important context and detail needed to support informed policy development and decision making. However, the Review found that governments remain reluctant to share the data they hold due to a culture of risk avoidance and privacy concerns. Governments need to not only declare a different approach to data and information sharing, but also support department officials in understanding what this looks like in practice and why it is important. This could include internal guidelines demonstrating what change looks like and training about obligations under the Agreement.

The Productivity Commission also noted that little has been done to rebalance the power between governments and Aboriginal and Torres Strait Islander people regarding the collection, management, and use of their data. Data collected by government agencies is often framed in a way that is not meaningful to Aboriginal and Torres Strait Islander people, and the way outcomes are measured for performance monitoring under the Agreement is inconsistent with social and emotional wellbeing. Aboriginal and Torres Strait Islander communities need to be able to determine what data they need and how data about them is collected, accessed, and used, and government needs to support this to be implemented. Leadership over the narrative used to frame this data is essential, reflecting the basic intent of Indigenous Data Sovereignty (IDS).

The Victorian Government must work with Aboriginal stakeholders to embed IDS principles across data systems, in legislation, policy and practice. Victorian Government departments and agencies have begun to implement data sharing processes to provide their relevant Aboriginal Governance Forums and ACCOs with data and insights to support analysis of trends, monitoring and evaluation, and decision making. This includes enhancing datasets, developing data packs and developing interactive data visualisations. It also includes facilitating meetings, agenda items or deep dives to discuss data. Ngaweeyan Maar-oo is pleased to see this work is underway, as well as dedicated data projects, including the Department of Energy, Environment and Climate Action’s (DEECA) Pathway towards

³³ Lowitja Institute, ‘Taking control of our data: A discussion paper on Indigenous data governance for Aboriginal and Torres Strait Islander people and communities (Discussion Paper)’ (Melbourne: 2024) <<https://doi.org/10.48455/rtvd-7782>>

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Indigenous Data Sovereignty Policy and the Department of Jobs, Skills, Industry, and Regions' (DJSIR) funding initiatives to support the delivery of the Aboriginal Health, Medical and Wellbeing Research Accord. These pockets of good practice need to be better coordinated across government both with Victoria and across Australia.

Community data projects need to be invested in, evaluated and scaled up

Clause 74 of the National Agreement committed to establishing data projects in up to six locations across Australia. In Victoria, the data project is being delivered in Gippsland in conjunction with the place-based partnership.³⁴

The Agreement includes very little detail on how the community data projects are expected to advance wider progress against Priority Reform 4 and their scalability. To be most effective, Ngaweeyan Maar-oo contends that the collective objective of data projects should be to purposively develop and test new approaches that demonstrate how Aboriginal and Torres Strait Islander communities can be empowered to develop and access local, disaggregated data that serves their interests and to use and govern it in a way that reflects their cultural protocols and aspirations.

Part of scaling up community data projects also requires that Indigenous data capability is supported within ACCOs and government agencies, through expertise development such as training programs and two-way secondments. There also needs to be investment in Indigenous data infrastructure so that the necessary technology, operating protocols, and supporting services for communities and organisations are in place to support them to manage their own data collections and assume custodianship of new datasets.

To ensure that the learnings of the data projects can be applied to other locations, it is critical that the Victorian Government partners with ACCOs to develop and resource a robust evaluation plan to analyse and apply the insights from the community data projects to broader efforts to advance Priority Reform 4. This should also draw on the learning from other national data projects and provide a collective evaluation plan that details the similarities and differences in their designs and any key elements they are testing. The evaluation plan should include both an on-going developmental component to provide 'real-time' feedback and support adaptation, as well as a process and outcomes components to provide an understanding of how local context affects the feasibility and effectiveness of different approaches.

The Victorian Government is working collaboratively with other jurisdictions and the Coalition of Peaks to implement the national Data Development Plan to ensure that each socioeconomic outcome has a richer array of high-quality data sources over the life of the National Agreement. Ngaweeyan Maar-oo endorses the work underway at a national level to consider a Bureau of Indigenous Data as recommended in the Productivity Commission's review. The Bureau of Indigenous Data will mean First Peoples will have the ability to collect, access, interpret and control data in way that reflects their priorities, values, cultures and diversity.

³⁴ Victoria State Government, First People – State Relations, 'Victorian Government Aboriginal Affairs Report' (Victoria: 2024), pg 25.

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Conclusion

As outlined in this submission, ACCOs have a critical role to play in transforming the systems and structures that have enabled the ongoing marginalisation of Aboriginal people and Communities. Drawing on the National Agreement, Ngaweeyan Maar-oo has provided an oversight of the actions that must be taken to enable a whole of system transformation across government and its services to not only close the gap but ensure that Aboriginal and Torres Strait Islander people are able to thrive in Victoria.

Ngaweeyan Maar-oo encourages the Yoorrook Justice Commission to endorse the recommendations made by the Productivity Commission in its review on Closing the Gap, but to also consider the areas for action that our sector representatives have identified.



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