



27 January 2023

Mr Michael Brennan
Chair
Productivity Commission

By email to: ctg.review@pc.gov.au

Dear Mr Brennan,

Re: Review of National Agreement on Closing the Gap

The Federation of Victorian Traditional Owner Corporations (**Federation**) welcomes the opportunity to provide comments to inform the Productivity Commission's proposed approach to assessing progress of the National Agreement on Closing the Gap and how it is being implemented. We thank the Commission for accepting our comments beyond the official closing date and hope you find value in our comments and issues raised.

The Federation is the Victorian state-wide body that convenes and advocates for the rights and interests of Traditional Owners while progressing wider social, economic, environmental, and cultural objectives.

As well as addressing the National Agreement's four Priority Reforms and some specific socio-economic outcome areas, we provide some general comments on the National Agreement on Closing the Gap.

General comments on the National Agreement on Closing the Gap

Deficit Approach

The Agreement, as with previous iterations, continues to see Aboriginal and Torres Strait Islander disadvantage from a deficit-based approach. The focus on 'gaps' frames and represents Aboriginal and Torres Strait Islander people in a narrative of negativity, deficiency, and failure. While deficit data can be useful to highlight inequalities and draw attention to areas requiring more effective and appropriate service delivery from governments, when repeatedly restated, such statistics can also contribute to a narrative that reduces Aboriginal and Torres Strait Islander people into a statistical problem. Moreover, such deficit discourse can place responsibility for inequalities with Aboriginal and Torres Strait Islander people and communities, and obscures underlying structural inequalities and more sophisticated understandings of the roles that factors such as language, culture, Country and community play in health outcomes. Efforts need to be made to move to a vision of Aboriginal

and Torres Strait Islander health that recognises the achievements, resilience, capacity, diversity and strengths of Aboriginal and Torres Strait Islander peoples and communities.¹

Indigenous conceptions of health and well-being

The Agreement and its targets and Indicators place too much emphasis on statistical equality between Indigenous and non-Indigenous Australians, while failing to properly reflect Indigenous conceptualisations of health and well-being, and diversity within Indigenous communities. Indigenous peoples have long described health and well-being from a holistic, relational perspective that encompasses one's physical, social, emotional, and spiritual well-being in connection with community, culture and Country.² It is imperative that Indigenous conceptions of health and well-being are centred in the development of frameworks and indicators intended to assess and measure Indigenous health and well-being and to improve outcomes. We also note here that complex aspects of well-being, such as cultural identity and connection to community and Country, are not easily represented in statistics and qualitative material is better able to capture their complexity.

Connection to culture and Country

As noted above, for Aboriginal and Torres Strait Islander people, the concept of health and wellbeing has long been understood as holistic, with connection to culture and Country being inextricably linked to health and wellbeing. The interconnectedness of these aspects means Indigenous health and wellbeing must be considered in the context of culture and Country and cannot be considered in isolation.

Research has shown that strong connections to culture and Country builds stronger individual and collective identities, a sense of self-esteem and resilience, and has demonstrated the importance of culture in realising better outcomes across other determinants of health including education, economic stability and community safety.³

Though the Agreement recognises the centrality of culture to Indigenous health and well-being (in clause 5), there is little reference to the cultural aspects of health and well-being in the Agreement's targets and indicators (with the exception of socio-economic outcomes 15 and 16).

The focus on improving socio-economic indicators arguably reflects a non-Indigenous ideal of wellbeing that, as noted above, fails to reflect the critical elements of health and wellbeing that resonate with Indigenous peoples and communities where connection to family, community, language, culture and Country are viewed as equally important.

The Agreement needs to give greater prominence to the cultural determinants of health.

¹ Fogarty, W., Bulloch, H., McDonnell, S. and Davis, M. (2018) *Deficit Discourse and Indigenous Health: How Narrative Framings of Aboriginal and Torres Strait Islanders People are Reproduced in Policy*, The Lowitja Institute, Melbourne, Australia.

² Fogarty, W., Bulloch, H., McDonnell, S. and Davis, M. (2018) *Deficit Discourse and Indigenous Health: How Narrative Framings of Aboriginal and Torres Strait Islanders People are Reproduced in Policy*, The Lowitja Institute, Melbourne, Australia; Rigney, D., Bignall, S., Vivian, A., and Hemming, S. (2022) *Indigenous Nation Building and the Political Determinants of Health and Wellbeing*, Discussion Paper, The Lowitja Institute, Melbourne, Australia.

³ See for example: Brown, N. (2013) *Culture is an important determinant of health*, presentation at NACCHO Summit, Viewed on 27 January 2023 at: [Culture is an important determinant of health: Professor Ngiare Brown at NACCHO Summit – Croakey Health Media](#); The Lowitja Institute, *Culture is Key: Towards cultural determinants-driven health policy*, 2021; Commonwealth of Australia, Department of Health, *My Life My Lead - Opportunities for strengthening approaches to the social determinants and cultural determinants of Indigenous health: Report on the national consultations*, December 2017.

UNDRIP Principles

The implementation of the National Agreement should be driven by the principles of the United Nations Declaration on the Rights of Indigenous People (UNDRIP), to which Australia is a party. The principles of self-determination, participation, cultural rights, land rights, ownership, and free prior and informed consent all form the basis for supporting Aboriginal and Torres Strait Islander peoples and communities in their efforts to set an agenda for improving their wellbeing.

Under the Declaration, rights to health, education, housing, and other basic needs are understood as inextricable from the rights to self-determination, participation in decision-making, respect for and protection of culture and equality and non-discrimination.

Political determinants

Greater consideration needs to be given to the political determinants of health and wellbeing alongside the social and cultural determinants.

Through colonisation, the loss of sovereignty and associated rights to self-government and self-determination remains a key factor affecting the health and wellbeing of Indigenous peoples. These political factors must therefore be addressed directly.

There needs to be a constructive focus on the positive political determinants of health and wellbeing. The Lowitja Institute have identified some positive political determinants of health and wellbeing that relate to the collective exercise of self-determination: sovereign decision-making; the ability to collectively define and pursue diverse development futures; the use of Aboriginal and Torres Strait Islander Law/Lore to guide community life and maintain public order; having own-defined institutions of self-government and associated powers of self-governance; having collective freedoms of political association (including the freedom not to associate); enjoying Aboriginal and Torres Strait Islander community control of services and maintaining access to cultural property while also controlling external access to privileged information.⁴

Approach of the Commission

This review is an opportunity for the Commission to recognise the interconnectedness between the targets and outcomes in the National Agreement and to evaluate them in a holistic way.

The Commission should also ensure that there is adequate consultation with the Traditional Owner community.

Priority Reform One

Formal partnerships and shared decision-making

The focus needs to shift away from Aboriginal and Torres Strait Islanders being 'involved' or sharing' in decision making with governments to building and strengthening structures and frameworks that begin with the assumption that Aboriginal and Torres Strait Islanders have the inherent right to make decisions about issues that affect their health and wellbeing. We should be aiming to build and strengthen decision-making power and authority within communities and increase Aboriginal and Torres Strait Islander control over their circumstances.

This goes to the heart of self-determination and respects the principles outlined in the UNDRIP. Aboriginal and Torres Strait Islander empowerment is vital to health and wellbeing.

⁴ Rigney, D., Bignall, S., Vivian, A., and Hemming, S. (2022) *Indigenous Nation Building and the Political Determinants of Health and Wellbeing*, Discussion Paper, The Lowitja Institute, Melbourne, Australia.

Priority Reform Two

Building the community-controlled sector

It is well established that Aboriginal community-controlled health services deliver quality health outcomes for Indigenous Australians. Aboriginal Community Controlled Organisations are examples of self-determination in action and these services should be properly funded as a priority.

We note that building the community-controlled sector needs to include the Traditional Owner community. We must support Traditional Owner communities to take control of their health and wellbeing. This must include investment in Indigenous Nations' (re)building and development to support shared aspirations and collective decision making and build capacity for successful self-governance.

Priority Reform Three

Transforming government organisations

The structural and transformative aims of the National Agreement should be a key priority.

Systemic racism and a lack of cultural capability, cultural safety and cultural security remain significant barriers to health equity and constructive action that addresses its causes and effects must be priority.

As noted above, directly addressing the key political determinants of health and wellbeing is critical to improving Indigenous health and wellbeing outcomes. We should be attempting to transfer decision-making power and jurisdiction over Indigenous issues out of the hands of government and into the hands of Aboriginal and Torres Strait Islander peoples.

Priority Reform Four

Shared access to data and information at a regional level

In order to support proper and meaningful implementation of this Priority Reform, it is essential that all governments uphold the Principles of Indigenous Data Sovereignty, which refers to the inherent rights of Indigenous people to govern the creation, collection, ownership and application of their data.⁵ Putting Aboriginal and Torres Strait Islander people in charge of their own data (and decisions) is critical to driving self-determination and understanding community priorities and progressing towards positive health and wellbeing outcomes.

Further, access to necessary, relevant and accessible information and evidence is critical to informing views and decisions, and underpins the exercise of another key right contained in the UNDRIP: the Free, Prior and Informed Consent of Aboriginal and Torres Strait Islander peoples before the adoption and implementation of legislative or administrative measures or projects that may affect Indigenous communities.

This will require, as a priority, government investment in developing the capabilities of Aboriginal and Torres Strait Islanders to access and use data and information.

It is vital that the Agreement explicitly acknowledges the Principles of Data Sovereignty.

⁵ Griffiths K.E., Johnston M., and Bowman-Derrick S. (2021) *Indigenous Data Sovereignty: Readiness Assessment and Evaluation Toolkit*, Lowitja Institute, Melbourne

Socio-economic outcome 8

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

The indicators for this outcome are not built around Aboriginal and Torres Strait Islander people remaining on Country or maintaining and strengthening connection to culture and Country.

Potential indicators include:

- Aboriginal and Torres Strait Islander peoples employed on Country
- Aboriginal and Torres Strait Islander peoples employed in Traditional Owner/Indigenous owned organisations
- Aboriginal and Torres Strait Islander owned businesses
- Government support for Aboriginal and Torres Strait Islander business initiatives
- Government support to employ Aboriginal and Torres Strait Islander peoples in roles that maintain and strengthen connection to culture
- Government procurement contracts awarded to Aboriginal and Torres Strait Islander businesses

Socio-economic outcome 15

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

As discussed above, there needs to be greater recognition of the importance of culture and its relevance to Aboriginal and Torres Strait Islander people's relationship with Country and its resources, and the broader social and economic improvement in the lives of Indigenous people.

We note that the indicators for this outcome focus on *recognition* of land and water rights rather than the *exercise* of those rights – that is, the use of land and water to meaningfully leverage social, cultural and economic outcomes. They also reflect *national* targets for land/sea that are subject to Aboriginal and Torres Strait Islander people's legal rights and interests. This includes the vast land mass in Northern Australia. *Regional* targets are necessary to accurately represent what is happening across the Country.

The need for development of the Aboriginal and Torres Strait Islander economy also needs to be recognised. Potential indicators might include Aboriginal and Torres Strait Islander rights in resources e.g. fisheries, native plants, water, extractables (minerals, petroleum etc).

Socio-economic outcome 16

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

As we have noted above, there is increasing evidence of the link between strong connections to culture and community and positive health and well-being outcomes for Aboriginal and Torres Strait Islander people.

The indicators for outcome 16 are focused solely on language rejuvenation and retention. They do not refer to knowledge of and participation in arts-based cultural expression (art and crafts, dance, music, song), ceremonial traditions, knowledge of ancestral stories, relationships with living ancestor/Elders, spirituality or the exercise of traditional knowledge and cultural practices e.g. recognition and use of traditional knowledge in land and water management.

Potential indicators include:

- Opportunities to connect to Country and Elders
- Knowledge and participation in arts-based cultural expression
- Exercise of traditional knowledge and cultural practices in managing Country

We thank the Commission for this opportunity to comment on the proposed approach to assessing progress of the National Agreement on Closing the Gap and how it is being implemented. Please do not hesitate to contact this office if require any further information.

Yours sincerely

A handwritten signature in black ink, appearing to read "Paul Paton", followed by a period. The signature is written in a cursive style.

Paul Paton
Chief Executive Officer