

AIGI

Australian Indigenous Governance Institute

REVIEW OF THE NATIONAL AGREEMENT ON CLOSING THE GAP 2026

SUBMISSION TO THE PRODUCTIVITY COMMISSION

Australian Indigenous Governance Institute

ACKNOWLEDEMENT

AIGI acknowledges the Traditional Owners of the lands and waters across Australia and pay our respects to Elders past and present. We recognise the strength of Aboriginal and Torres Strait Islander governance systems that continue to care for communities and Country.

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Australian Indigenous Governance Institute (AIGI) | 23 October 2026

About AIGI

The Australian Indigenous Governance Institute (AIGI) is the national Indigenous-led organisation for Indigenous governance. AIGI works with Aboriginal and Torres Strait Islander organisations, boards and emerging leaders across Australia, and with the governments, corporates and funders that engage with them.[1] AIGI's online Indigenous Governance Toolkit reached more than 100,000 users in 2025-26.[2]

AIGI describes working across Indigenous and Western governance requirements as two-way governance. Indigenous governance carries its own law, authority and accountability to members, communities and Country. Indigenous organisations must also work within Australian corporate, regulatory and funding systems. Two-way governance enables them to maintain cultural legitimacy and self-determination while meeting those external requirements.

> ***"By working with AIGI I learned about their important, specialised services and offerings in Indigenous Governance. I learned that only a First Nations' led organisation like AIGI can truly understand, communicate and teach others about Indigenous Governance."***
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> ***Survey respondent, AIGI mid-term review, 2025*** [3]

AIGI would welcome the opportunity to discuss this submission with the Commissioners.

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[1] AIGI discloses that governance capability support is part of its paid work.

[2] Indigenous Governance Toolkit analytics, 2025-26: 107,018 unique users. Google Analytics estimates unique users, and part of the 2025-26 growth reflects a LinkedIn advertising grant.

[3] Survey respondent, stakeholder survey, quoted in Nous Group 2025, *AIGI Mid-Term Review: Final Evaluation Report*, p 18.

Executive Summary

Governments must demonstrate increased Indigenous authority and account for missed commitments

AIGI supports the National Agreement and its four Priority Reforms as the foundation for a different relationship between governments and Aboriginal and Torres Strait Islander peoples. Delivering that promise means peoples exercising greater control over decisions, resources and information through governance they recognise as legitimate.

AIGI asks the Commission to recommend a practical accountability requirement: each government publishes what authority it has agreed to share or transfer, with whom and by when. Independent, Indigenous-led mechanisms should verify progress, with missed commitments requiring a public explanation and corrective action.

The main gap is implementation. The 2024 Productivity Commission review and the 2025 Aboriginal and Torres Strait Islander-led review identified the reforms needed, and Joint Council accepted most of them.[4] [5] Yet independent accountability mechanisms operate in only two of nine jurisdictions. Seven of the eighteen Partnership Actions remain in negotiation, and progress on community-controlled service delivery cannot be measured because governments are not reporting against agreed indicators.[6]

Indigenous governance must carry authority, resources and information into decisions

AIGI's experience in two-way governance informs its position: Indigenous governance must have a recognised role in decisions, backed by the resources and information needed to act. This matters because authority determines who sets priorities, allocates funding and shapes services.

To put agreed authority into practice, measure progress and embed enduring, sustainable change, AIGI recommends five connected actions:

1. Publish agreed changes to decision-making authority, resources and data, identifying who holds authority and by when the changes will occur.
2. Recognise and rely on Indigenous governance across government.
3. Embed agreed decision rights in government processes.
4. Report who controls funding and data.

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[4] Productivity Commission 2024, *Review of the National Agreement on Closing the Gap*, study report, Canberra.

[5] Lavarch, L et al. 2025, *Independent Aboriginal and Torres Strait Islander-led Review of Closing the Gap*, Jumbunna Institute for Indigenous Education and Research, University of Technology Sydney.

[6] Joint Council on Closing the Gap 2026, *Response to the Independent Aboriginal and Torres Strait Islander-led Review of the National Agreement on Closing the Gap*, agreed May 2026, published July 2026.

5. Independently verify progress and require public explanations and corrective action when commitments are missed.

Section 3 explains each of the five actions.

1. Governments must show how agreed reforms have changed decisions

1.1 Governments have accepted a substantial reform agenda

The Agreement commits them to formal partnerships with agreed decision-making arrangements (clauses 32 to 39), a stronger community-controlled sector with reporting against agreed indicators (clause 55), transformed government organisations including an independent accountability mechanism in each jurisdiction (clauses 59 and 67), published expenditure reviews (clause 113) and shared access to data (clauses 72 and 74). Further commitments followed the 2024 review. Governments agreed through Joint Council to its four key recommendations and fifteen of its sixteen actions.[7]

In May 2026 eleven Partnership Actions were taken forward in response to the Aboriginal and Torres Strait Islander-led review, including annual reporting on funding to community-controlled organisations and consideration of embedding the Priority Reforms in public service legislation.[6]

1.2 Agreed reforms remain incomplete, and key measures of progress are missing

Implementation reporting identifies four gaps:

- Independent accountability mechanisms under clause 67 operate only in the ACT and Victoria. They are not yet operating in the other seven jurisdictions.
- Seven of the eighteen Partnership Actions remain unagreed and in negotiation.
- Progress on increasing community-controlled service delivery (clause 55) cannot be measured because governments are not reporting against the agreed indicators.[6]
- Publication of expenditure reviews under clause 113 was partial at the 2024 review.[4]

Governments report that Indigenous Advancement Strategy funding is now 75 per cent Aboriginal-delivered, up from 35 per cent, and that more than 30 health services are moving to community control. Aboriginal organisations in the Northern Territory are also reported to share decisions on a ten-year remote housing investment.[6] The Commission should examine what authority these arrangements give Aboriginal and Torres Strait Islander parties, what difference it makes and how it is sustained.

[7] Productivity Commission 2026, Review of the National Agreement on Closing the Gap 2026: call for submissions, September.

1.3 The main gap is implementation, although some actions remain unresolved

The 2024 review found that fundamental changes are required and that governments have not adequately prioritised the Priority Reforms.[4] Two years on, the evidence above identifies commitments that are incomplete or cannot yet be measured. It also does not provide a consistent account of where decision-making has changed hands.

Socio-economic data provides important context but answers a different question. Of the seventeen targets, one has been met, seven are improving, two show no change, four are worsening and three cannot be assessed.[7] Outcome data alone cannot show where authority has shifted.

1.4 Governments maintain that strong accountability mechanisms exist and should be fully used [6]

AIGI's position is that accountability is incomplete while the agreed independent mechanisms are absent from seven jurisdictions. Governments must demonstrate what has changed, and Aboriginal and Torres Strait Islander parties must be able to challenge their account. Independent mechanisms need powers to examine evidence, publish findings and require responses when commitments are missed.

2. Authority must be exercised through legitimate governance and sustained

The Priority Reforms require changes in who decides. Indigenous governance provides the arrangements through which Aboriginal and Torres Strait Islander peoples exercise authority and hold decision-makers accountable to members, communities and Country.

The decisions those arrangements carry are growing in scale and consequence. There are now 674 native title determinations and 1,534 registered Indigenous land use agreements, and most critical minerals projects intersect land where native title rights or claims exist. Compensation for cultural loss has risen from $2.53 million at Timber Creek in 2019 to $54 million at McArthur River and $150 million for the Yindjibarndi People in 2026.[8]

That authority enables peoples and organisations to set priorities, direct resources to locally identified needs and adapt services to community circumstances and culture. It must be supported by adequate funding, workforce and effective services. Government systems must recognise and work with these governance arrangements.

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[8] National Native Title Tribunal, Statistics, accessed October 2026: 674 determinations and 1,534 registered Indigenous land use agreements. Northern Territory v Griffiths [2019] HCA 7. Gudanji, Yanyuwa and Yanyuwa-Marra Peoples v Northern Territory of Australia, Federal Court of Australia, February 2026. Yindjibarndi Ngurra Aboriginal Corporation RNTBC v State of Western Australia (No 2) [2026] FCA 585. Burton, J, Kemp, D, Barnes, R and Parmenter, J 2024, 'Mapping critical minerals projects and their intersection with Indigenous peoples' land rights in Australia', Energy Research and Social Science, vol 113: 57.8 per cent of projects intersect land where a right to negotiate applies, rising to 79.2 per cent when claims are included.

Research supports the proposition that practical decision-making power, exercised through capable and culturally legitimate institutions, can contribute to better outcomes. Comparative research in the United States has documented this relationship.[9] Australian research also identifies the importance of culturally legitimate governance, although evidence on the effects of transferred authority is more limited.[10] The Commission should assess whether decision rights have changed and examine their contribution to outcomes over time, alongside resources, workforce and services.

AIGI proposes five questions for assessing any reported initiative (Table 1). These address different aspects of implementation and can apply together. For example, an initiative may include consultation, capability support and transferred authority. Activity, capability and recognition can support reform, but do not on their own demonstrate changed authority.

Table 1: ***Indicative questions to assess implementation and changed authority***

Question	What it asks	What it can show
1. Activity	What was done?	Consultations held, training delivered or plans published
2. Capability	What ability or systems were developed?	Improved ability to act, in government and community organisations
3. **Recognition**	What governance arrangements do government systems recognise and rely on?	How recognition affects government processes and decisions
4. **Authority**	What changed in who can decide?	Changed decision-making, shared or transferred
5. **Durability**	How is the change protected and sustained?	If law, agreements, institutions and resources support the change over time

For this assessment, shared decision-making means the specified decision requires agreement from both parties. Transferred decision-making means the Aboriginal and Torres Strait Islander body has authority to make that decision.

Consultation may contribute to either arrangement, but does not alone establish a change in decision rights. The appropriate arrangement depends on the decision and the rights-holders

[9] Cornell, S. and Kalt, J.P., Two Approaches to Economic Development on American Indian Reservations, Harvard Project on American Indian Economic Development, 2005. See also Harvard Project on Indigenous Governance and Development, The State of the Indigenous Economy: Social and Economic Changes on American Indian Reservations, 1990–2020, 2025.

[10] Lowitja Institute and University of Melbourne, Planning, Implementation and Effectiveness in Indigenous Health Reform, 2015; Drieberg, Smith and Sutherland, Governing the Pandemic, Centre for Aboriginal Economic Policy Research, Australian National University, 2024. On the effects of devolved decision-making, see Howard-Wagner, D, OCHRE Local Decision Making Stage Two Evaluation: Synthesis Report, ANU Centre for Indigenous Policy Research, 2025.

involved. A well-designed shared arrangement can represent a substantive change in authority.

Where authority has changed, assess how securely it is established. A change dependent on one program, individual or funding cycle may be vulnerable to withdrawal and should not be described as lasting transformation without further evidence. Queensland's repeal of its treaty legislation in 2024 shows how quickly authority dependent on government policy can be withdrawn. By contrast, transfers that have endured are secured in legislation and long-term agreement.[11]

AIGI's observation from practice is that reporting focuses mainly on activity and capability, with less evidence of changed authority or its durability.[12] The Commission should test this observation against the wider implementation record.

3. Five actions will advance agreed authority into practice

The following five actions build on the Agreement and introduce additional requirements. Governments should implement them together, with clear responsibilities and adequate resources.

3.1 Publish who will decide, with what resources and by when

Each government should publish and maintain an authority schedule: a public record of agreed changes to who decides, with the resources, responsibilities and deadlines specified. Joint Council should agree the requirement and a consistent reporting format.

No community or organisation should be required to assume functions it has not agreed to undertake. Governments must agree and provide the resources needed to exercise those functions. Progress against schedules must be validated by the Aboriginal and Torres Strait Islander parties and independently verified, as set out in section 3.5.

Each entry should identify:

- The decision and if authority is shared or transferred.
- The body that will exercise that authority.
- The resources and information required, who will provide them and when.
- Milestones and responsibilities for implementation.
- How progress will be assessed.

[11] Path to Treaty Act 2023 (Qld), repealed 2024. Indian Self-Determination and Education Assistance Act of 1975 (US). British Columbia Tripartite Framework Agreement on First Nations Health Governance 2011, with services transferred to the First Nations Health Authority from 2013. Mi'kmaq Education Act, SC 1998, c 24.

[12] The observation draws on governance support delivered to Indigenous organisations in every state and territory, and on AIGI's independent mid-term review: Nous Group 2025, AIGI Mid-Term Review: Final Evaluation Report.

Entries can cover six domains: priority setting, funding, service design, data, evaluation and accountability.

The schedule must show what the Aboriginal and Torres Strait Islander parties can decide in practice. Depending on the arrangement, this may include setting priorities, approving or rejecting proposals, allocating resources, commissioning services, setting evaluation measures and requiring responses when commitments are missed. Consultation alone does not demonstrate shared decision-making.

Schedules should also be integrated into implementation plans and annual reporting. Governments should identify which existing reporting they replace or consolidate, rather than create a parallel reporting process. Activity information should be retained where it is needed to explain progress or barriers.

3.2 Recognise Indigenous governance in government decisions

Indigenous governance already exists, with 3,361 corporations registered under the CATSI Act alone, including 291 native title bodies corporate, governed by more than 17,900 directors.[13] Government systems must recognise its legitimate role in the decisions concerned.

Governments and the community-controlled sector should jointly develop criteria for recognising and relying on Indigenous governance across funding, procurement, partnerships, appointments and assurance. Legitimacy comes from the relevant Aboriginal and Torres Strait Islander peoples. The criteria should govern how agencies work with that governance, rather than allowing governments to determine its legitimacy.

Agencies should use existing assessments where they remain relevant and current, rather than repeat them. Any request for additional information should have a clear justification.

The proposal should not create a national accreditation scheme or register of approved governance. Organisations must remain able to change their arrangements through their own legitimate processes. Recognition for one purpose does not establish authority for another.

Where capability support is sought, it should be sustained, locally adaptable and sector-led. It should cover the governance design, director and member capability, succession, decision-making systems and conflict resolution needed by the organisation. Governments should fund this support as part of the cost of exercising authority, alongside service delivery.

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[13] Office of the Registrar of Indigenous Corporations 2026, State of the sector: July to December 2025: 3,361 registered corporations, 291 registered native title bodies corporate and 17,921 directors at 31 December 2025. By contrast, four directors across the ASX300 openly identified as Aboriginal or Torres Strait Islander in 2026, down from five the year before, and the 2025 index reported 91.9 per cent of board seats held by directors of Anglo-Celtic background: Watermark Search International, Deloitte and Australian Institute of Company Directors, Board Diversity Index, 2026 and 2025 editions.

Funding mechanisms already exist, but current provision is small against the scale of the sector.[14]

3.3 Embed agreed decision rights in government processes

Governments must put agreed decision rights into the processes that determine how they act: cabinet submissions, budgets, procurement and grants rules, commissioning, evaluation and executive performance agreements. Central agencies should be responsible for ensuring this happens.

Government processes should show whether Aboriginal and Torres Strait Islander parties exercised their agreed authority. Officials should demonstrate that they can identify the relevant rights-holders, work across governance systems, negotiate decision rights and adapt funding arrangements. Training, policy statements and action plans support reform but do not, on their own, demonstrate changed practice.[6] [15]

3.4 Report on who controls funding and data

Funding reporting should show who makes decisions, alongside how much is spent. Governments should use the agreed annual reporting on funding to community-controlled organisations to identify:

- Who designed the funded initiative and who decides allocations.
- The share of funding reaching community-controlled organisations.
- Agreement length and flexibility.
- The reporting burden carried by recipients.
- Funding provided for governance and administration.

These fields build on the existing reporting commitment.[6] Governments and the community-controlled sector should agree the reporting scope, with governments responsible for compiling information they already hold.

Indigenous Data Sovereignty requires both access to information and authority over it. Communities need timely, usable government-held data and agreed decision rights over what is collected about them, how it is interpreted and used, and when and how it is

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[14] National Indigenous Australians Agency, Capacity Building for Prescribed Bodies Corporate program, $114.8 million over 2024-25 to 2028-29. Northern Territory Remote Aboriginal Investment Partnership Agreement 2025, $842.6 million over six years from 1 July 2025. On provision against demand: the only sponsored accredited pathway offers about 20 places a year (Office of the Registrar of Indigenous Corporations 2026, Certificate IV in Aboriginal and Torres Strait Islander Governance course information) and AIGI's Emerging Directors Program received 82 applications for 15 places in 2025 (Nous Group 2025, AIGI Mid-Term Review: Final Evaluation Report, p 12), against more than 3,300 registered corporations.

[15] The same gap between stated commitment and changed practice is documented beyond government. More than half of ASX200 directors report feeling ill-equipped to navigate social licence issues, including First Nations engagement: Russell Reynolds Associates 2025, Corporate Governance Trends in Australia. KPMG 2025, Key Challenges Boards Should Address in 2025. See also Young, N, Annese, L et al 2020, Gari Yala (Speak the Truth), Jumbunna Institute and Diversity Council Australia.

released. Governments must honour community-agreed data governance arrangements and report how community data requests have been handled, while protecting confidential and culturally restricted information.

These practical improvements should proceed alongside the Data Policy Partnership's broader work, including consideration of a national independent data body.[6]

3.5 Independently verify progress and require corrective action

Each jurisdiction should establish an Indigenous-led independent mechanism in legislation, with powers to obtain information, assess progress against authority schedules, publish findings and require a formal government response within a specified period.

The arrangements should distinguish two steps:

1. The Aboriginal and Torres Strait Islander parties confirm, qualify or dispute the government's account of progress.
2. The independent mechanism examines the evidence and publishes its assessment, including unresolved differences between the parties.

A missed milestone should require a public explanation by the responsible Minister to parliament and Joint Council, together with a corrective plan and dates. Joint Council should maintain a public register linking schedules, findings, responses and corrective action.

Clause 67 already commits governments to independent mechanisms. AIGI's proposal specifies legislated powers and consequences to make independent scrutiny and government responses more effective.[4] Victoria has already legislated its mechanism through the Statewide Treaty Act 2025, so a legislated, Indigenous-led body is demonstrably achievable.[16]

The Commission should also examine how authority commitments can be enforced through intergovernmental funding agreements. Health, education, housing and skills agreements are reported to reference the Priority Reforms.[6] Those references should lead to clear responsibilities and consequences for non-delivery. Any conditions must protect essential services and ensure that communities do not bear the consequences of government failure.

4. Evidence to examine in this review

The Commission should test where authority has changed, what difference it has made and what sustains it. This includes examining where increased authority has not been associated with improved outcomes.

The following questions would help establish what works, for whom and under what conditions.

[16] Statewide Treaty Act 2025 (Vic).

4.1 Where has implementation progressed, and what is preventing further action?

Use the five questions in section 2 to distinguish reported activity and capability from demonstrated changes in authority. Examine:

- The seven Partnership Actions still in negotiation and the reasons agreement has not been reached.
- Progress on clause 67 and the barriers to establishing independent mechanisms.
- The extent to which existing implementation reporting identifies who can now make decisions that previously rested with government.

4.2 Who controls funding and data?

Trace selected funding streams from announcement to recipient, identifying who designed the initiative, allocated resources and controlled their use.

Examine reporting against the Priority Reform 2 indicators and clause 113 to establish what information is available and what remains missing. For data, assess if and how communities can obtain usable information and exercise agreed rights over its collection, interpretation, use and release.

4.3 What difference has changed decision-making made, and will it last?

Examine progress by place and remoteness as well as nationally, to identify differences that national averages can conceal.

Compare places and sectors where decision-making has changed with those where it has not. Transitions of out-of-home care to community-controlled organisations may provide examples, subject to confirming their scope, timing and suitability.[17]

These comparisons can identify relationships between authority and outcomes, but cannot alone establish causation. Account for differences in resources, starting conditions and timeframes, particularly where changes are recent. Examine sustained changes to identify what has helped them last.

[17] On the case for this comparison: nationally and excluding Western Australia, Aboriginal community controlled organisations received 6.8 per cent of child protection expenditure in 2023-24, while Aboriginal and Torres Strait Islander children were 45 per cent of children in out-of-home care. SNAICC National Voice for our Children 2025, *Family Matters Report 2025*, drawing on Australian Institute of Health and Welfare, *Child Protection Australia 2023-24*.

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