Tasmanian Aboriginal Legal Service Written Submission:

Review of the National Agreement on Closing the Gap 2026

26 October 2026

As an advocate for law reform, justice and equity for all Tasmanian Aboriginal peoples, the Tasmanian Aboriginal Legal Service ('TALS') welcomes the opportunity provided by the Productivity Commission to prepare a submission on the Review of the National Agreement on Closing the Gap ('the Agreement') 2026.

TALS is an Aboriginal and Torres Strait Islander Legal Service ('ATSILS') that specialises in criminal, civil and family law matters for Tasmanian Aboriginal peoples. TALS also operates SiS Tasmania ('SiS'), a Family Violence Prevention and Legal Service ('FVPLS') that specialises in supporting Aboriginal victim-survivors of family violence with legal and non-legal services.

This submission is guided by the 'terms of reference' and 'questions to guide submissions' provided by the Productivity Commission in their paper titled *Review of the National Agreement on Closing the Gap 2026: Call for submissions*. Additionally, TALS will discuss peripheral issues that are not explicitly addressed in the paper.

TERMINOLOGY

In this submission any reference to Aboriginal peoples is to be understood as encompassing Torres Strait Islander peoples. Other terms may be respectfully used to reflect the language used in source materials, legislation, policy and existing frameworks.

The use of acronyms throughout this submission reflects standard practice in policy documents where lengthy titles or recurring terminology appear. Each acronym has been defined at first mention and is used consistently to improve readability without altering the substantive content of the submission. A glossary of acronyms is also provided below for ease of reference.

ABS – Australian Bureau of Statistics

ACCO – Aboriginal Community Controlled Organisation

AIHW – Australian Institute of Health and Welfare

ANAO – Australian National Audit Office

APS – Australian Public Service

ATSILS – Aboriginal and Torres Strait Islander Legal Service

FVPLS – Family Violence Prevention and Legal Service

NATSIEC – National Aboriginal and Torres Strait Islander Education Corporation

SiS – SiS Tasmania

SNAICC – Secretariat of National Aboriginal and Islander Child Care

TAC – Tasmanian Aboriginal Centre

TALS – Tasmanian Aboriginal Legal Service

TLA – Tasmania Legal Aid

WLS – Women's Legal Service Tasmania

CLOSING THE GAP

The Agreement is an initiative aimed at addressing significant disparities in health, life expectancy, education and socio-economic outcomes between Aboriginal peoples and the wider Australian community. The Agreement recognises the structural transformation needed in the way governments work and is underpinned by the participation and partnership from Aboriginal peoples, and relevant representative bodies, to determine, drive and own self-determined outcomes alongside governments.[1] In 2020, a renewed commitment was established through the formal signing of the Agreement between all Australian governments and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks).[2]

The pillars of the Agreement are its 4 Priority Reforms:

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.[3]

These reforms have been directly informed by Aboriginal peoples and are central to changing the way governments work with Aboriginal peoples and communities.[4] The Agreement has also set 19 targets spread across 17 socio-economic areas that have an impact on the life outcomes of Aboriginal peoples.[5]

THE REVIEW

The Agreement requires the Productivity Commission to undertake a review of the actions aimed at achieving Priority Reform outcomes, and progress towards meeting the Agreement's socio-economic targets, every 3 years.[6]

This is the second review undertaken by the Productivity Commission (the first review was published January 2024) and it will assess progress and implementation efforts towards improving life outcomes for Aboriginal peoples.[7] Additionally, the review will provide recommendations for how to improve, hasten and strengthen the implementation of existing commitments and, where necessary, provide recommendations on potential changes to the Agreement and its targets, indicators and trajectories.[8] As part of the review, new and existing funding, to both dedicated and mainstream services, will also be examined to determine effectiveness in meeting the Agreement's objectives.[9]

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[1] Australian Human Rights Commission, *Close the Gap: Indigenous Health Campaign* (17 March 2022).
[2] Closing the Gap, *History of Closing the Gap Targets and Outcomes* (accessed 24 September 2026).
[3] Closing the Gap, *Priority Reforms* (accessed 24 September 2026).
[4] Ibid.
[5] Closing the Gap, *Closing the Gap Targets and Outcomes* (accessed 24 September 2026).
[6] Productivity Commission, *Closing the Gap Review 2026*, Australian Government (7 September 2026).
[7] Ibid.
[8] Ibid.
[9] Ibid.

TALS RESPONSE

As stated, this submission will be guided, but not limited by, the 'Terms of reference' and 'Questions to guide submissions' sections of the *Review of the National Agreement on Closing the Gap 2026: Call for submissions*.

TALS will speak to matters that strongly resonate in Tasmania, most notably:

- **Governance of the Agreement:** shared decision-making, accountability, effective relationships.
- **Transforming government and government organisations:** partnerships, responsiveness, authority.
- **Building the community-controlled sector**: responsibility, resources, funding.
- **Data and information:** access, collection, use.

Additionally, TALS will make submissions regarding peripheral issues arising with the Agreement and review process itself.

Governance

While governments have made progress in establishing formal partnerships with ACCOs and Aboriginal communities, there are well-supported conclusions that power has not been consistently shared and established partnerships have often not operated as intended. The Productivity Commission's 2024 review of the Agreement found that governments were frequently treating the existence of formal partnerships as an outcome in itself, rather than asking if those partnerships actually facilitated a transfer of decision-making authority to Aboriginal peoples and communities.[10] The 2024 review also found that governments have seemingly been reluctant to relinquish power, treating ACCO's more so as 'funding recipient' as opposed to trusting them with the power to be essential partners in service design and delivery.[11] This has resulted in ACCO's being inadequately resourced to build their capacity as service leaders and to deliver high-quality, holistic and culturally safe services.[12] Ultimately, the 2024 review concluded that little had changed in the power-sharing relationship between governments and Aboriginal peoples, thus failing recognise and implement the knowledge, expertise and connection to community found within ACCOs.[13] This suggests that the elements of shared decision-making articulated in Priority Reform 1 have not been adopted in wider practice.

In 2025 the Coalition of Peaks enlisted the Jumbunna Institute for Indigenous Education and Research to independently review the Agreement. This review found little evidence of the transformative work required by governments to support the systemic and structural changes that will underpin successful and sustainable outcomes under the Agreement.[14] This review stated that despite governments speaking to the importance of self-determination and community-led responses, it was not matched by action. This inaction was attributed to a continued imbalance in understanding, resourcing and capacity between governments and the community-

[10] Productivity Commission, *Review of the National Agreement on Closing the Gap: Study Report Volume 1*, Australian Government (January 2024).
[11] Ibid.
[12] Ibid.
[13] Ibid.
[14] Jumbunna Institute for Indigenous Education and Research, *Closing the Gap Independent Aboriginal and Torres Strait Islander Review*, University of Technology Sydney (June 2025).

controlled sector, and a perceived lack of trust by governments in empowering ACCOs and Aboriginal communities.[15] The review findings implored governments to rethink what a genuine decision-making partnership entails, moving beyond inclusion within existing systems and toward transforming the systems.[16] However, as stated, this transformation was constrained by governments reluctance to de-centre its authority, which sees them retain substantial control over development, implementation and funding allocation.[17]

The *Review of the National Agreement on Closing the Gap 2026: Call for submissions* invites further critique of the governance of the Agreement. Unfortunately, there is still no consistent way of measuring the four Priority Reforms, which hinders the ability for governments to identify and assess the changes required to improve outcomes.[18] The lack of data available also delivers the biggest problem, in that there is little evidence measuring whether power and decision-making authority has actually shifted.

It is accepted that some progress has been made nationally, with existing partnerships being strengthened and new partnerships being formed between governments, ACCOs and Aboriginal communities. An example of new partnerships can be found in the Department of Education (Commonwealth) signing landmark formal Partnership Agreements in 2025 with the National Aboriginal and Torres Strait Islander Education Corporation ('NATSIEC') and the Secretariat of National Aboriginal and Islander Child Care ('SNAICC') to enable them to work with the Commonwealth on strategies to improve outcomes for Aboriginal children and young peoples.[19] However, while this evidences the formation of new partnerships it remains challenging to determine if power and shared decision-making has actually been realised. The progress update of the Productivity Commissions 2024 review of the Agreement, released early 2026, acknowledges this issue by explicitly recommending that 'power needs to be shared' between governments, ACCOs and Aboriginal communities, despite some modest improvements in partnership arrangements.[20]

The Australian National Audit Office ('ANAO)' released its *Closing the Gap in Schooling and Early Childhood Development — Partnership and Reporting* audit in January 2026, which further speaks to issue of transferring decision-making authority. This audit found that the 'strong partnerships' forged align with the objectives of the Agreement, however there are still 'mixed feelings' about the effectiveness of the partnerships and underlying governance arrangements.[21] These feelings were attributed to increasingly incomplete and unmeaningful reporting on the Agreements targets and outcomes, and the audit identified current government structures, processes and decision-making timeframes as barriers to shared power.[22]

The ambiguity in the relationship between partnerships and decision-making power can also create accountability issues. In the context of the Agreement, governments can report that partnerships exist, which

[15] Ibid.
[16] Ibid.
[17] Ibid.
[18] Productivity Commission, *Closing the Gap: Annual Data Compilation Report*, Australian Government (July 2026).
[19] National Indigenous Australians Agency, *Closing the Gap Appendix D: Progress Update of 2024 Productivity Commission Review Actions*, Australia Government (12 February 2026).
[20] Ibid.
[21] Australian National Audit Office, *Closing the Gap in Schooling and Early Childhood Development — Partnership and Reporting* (21 January 2026).
[22] Ibid.

partially satisfies Priority Reform 1, without being able to demonstrate that greater decision-making power has been transferred to Aboriginal peoples. The 2024 Productivity Commission review of the Agreement specifically identified the lack of independent mechanisms, consequences for inaction and clear accountabilities as problems.[23] The questions of why independent accountability mechanisms have not been established and how accountability can be strengthened remain in the *Review of the National Agreement on Closing the Gap 2026: Call for submissions*. This indicates that accountability, and ways of measuring it, remains an area requiring further development.

The Tasmanian Government has developed a plan to embed the Agreement's priority reforms titled *Tasmania's Plan for Closing the Gap 2025-2028*. This plan aims to demonstrate what the Tasmanian Government has agreed to do to implement the Agreement in Tasmania and has been approved by Tasmania's Coalition of Peaks partner.[24] Specifically, the plan sets out actions for Tasmanian government organisations and the Aboriginal community-controlled sector to address the priorities of Tasmanian Aboriginal peoples, progress the four Priority Reforms of the Agreement and to deliver the outcomes sought by the Agreement.[25]

It is noted that the Tasmanian Department of Premier and Cabinet also released their *Closing the Gap Annual Report 2024-25*, which outlines a range of plans and funded initiatives focussed on embedding the priority reforms.[26] In this report, it was indicated that progress was being made with regards to the priority reforms, with a focus on to how they have improved partnerships with community regarding health and education.[27] However, much of the work to date presents as being in the consultive phase, with commitments made to future transformative actions, as opposed to evidencing already delivered outcomes.

This fits with the Tasmanian Government's perception of their responsibilities, as they state that the Agreement commits them to consultative partnerships and shared decision-making over how programs and services are designed, delivered, monitored and evaluated.[28] However, the Agreement itself is much more specific, stating that Aboriginal peoples should have a decision-making role equivalent in weight to government representatives.[29] Therefore, by simply establishing a committee, partnership or consultation mechanism, the Tasmanian Government is not necessarily establishing equal decision-making authority.

Additionally, Tasmania is structurally different to other jurisdictions in that it is represented on the Coalition of Peaks by a single member, the Tasmanian Aboriginal Centre ('TAC').[30] The TAC maintains a longstanding representative role for Tasmanian Aboriginal peoples in its participation as a member of the Coalition of Peaks. It is important to note that this submission does not seek to delegitimise the TAC's role. TALS' critique is whether one organisation can, by itself, adequately represent all Tasmanian Aboriginal peoples, the diverse communities and organisations, and facilitate shared-decision making that is reflective of all voices and aspirations. It is noted

[23] Ibid (n 10).
[24] Department of Premier and Cabinet, *Tasmania's Plan for Closing the Gap 2025-2028*, Tasmanian Government (accessed 6 October 2026).
[25] Ibid.
[26] Department of Premier and Cabinet, *Closing the Gap Annual Report 2024-25*, Tasmanian Government (accessed 15 October 2026).
[27] Ibid.
[28] Ibid.
[29] Closing the Gap, *6. Priority Reform One - Formal partnerships and shared decision-making* (accessed 6 October 2026).
[30] Coalition of Peaks, *Our Members* (accessed 6 October 2026).

that other Tasmanian ACCOs, including TALS, have applied to join the Coalition of Peaks. To date these applications have been unsuccessful, and there is currently a pause on considering applications until the end of October 2026 while a review of their membership criteria and assessment processes is undertaken.

While the Agreement does not outline specific representation requirements for each jurisdiction, the purpose of the Coalition of Peaks model is to ensure collective representation and shared decision-making authority.[31] However, TALS considers it particularly important that Tasmania's governance model supports meaningful participation by the diversity of Aboriginal peoples, communities and organisations, and provides transparent mechanisms for ensuring that their perspectives, experiences and priorities inform shared decision-making. Moving forward, TALS implore governance parties review how ACCO representation is determined and how representation and accountability can be strengthened without undermining existing representative arrangements and self-determination. This will facilitate shared decision-making that is accountable to all Aboriginal peoples, which better aligns with Priority Reform 1.

This view is also supported by the Productivity Commission in both their 2024 agreement and 2026 data reviews, where it was indicated that it is difficult to measure how effectively members in each jurisdiction represent the diversity in their community.[32] It was suggested that the current representation model has not necessarily translated into equal influence and decision-making authority between governments and the Aboriginal communities, and that consultation and accountability may vary between jurisdictions.[33]

Transforming Government

The Agreement represents a commitment to a fundamental shift in how governments work with Aboriginal peoples, communities and organisations, moving from top-down, government led decision-making to more responsive, culturally safe and genuine partnerships that share accountability.[34] This is specifically reflected in Priority Reform 3 of the Agreement.[35]

As with reviewing the governance of the Agreement, significant barriers remain with regards to measuring Priority Reform 3, meaning that tangible evidence of government transformation is limited despite indications that the government framework is moving toward developing transformation strategies.

The Productivity Commission's 2024 review found that governments were doing things *around* the existing system rather than fundamentally changing the system itself.[36] The review was explicit in stating that governments need to systemically and structurally transform mainstream organisations to improve accountability and respond to the needs of Aboriginal peoples.[37] This review added that this transformation required governments change how they make decisions, change their organisational cultures, improve cultural safety, address institutional racism and deliver services in partnership with ACCOs, Aboriginal peoples and

[31] Coalition of Peaks, *Welcome to the Coalition of Peaks* (accessed 6 October 2026).
[32] Ibid (n 19).
[33] Ibid.
[34] SNAICC, *Closing the Gap* (accessed 6 October 2026).
[35] Ibid.
[36] Ibid (n 10).
[37] Ibid.

communities.[38] The review concluded by offering the clear warning that piecemeal policies and programs were not enough to address fundamental failures.[39]

The *Review of the National Agreement on Closing the Gap 2026: Call for submissions* invites discourse regarding how governments have transformed, and what actions they are taking to address institutional racism and improve cultural safety. Further to this, the review also asks about partnerships in service delivery and transparency around funding and decision-making.[40]

Compared with the findings of the 2024 review, there now appears to be much more emphasis placed on developing formal transformation strategies and implementation plans. For example, in 2025 the Commonwealth developed a *Priority Reforms Roadmap* that serves as a practical guide to help drive systemic and structural transformation in Australian Public Service ('APS').[41] The plan is for this roadmap to inform the development of a *Priority Reforms Strategy*, in conjunction with the Coalition of Peaks.[42] However to date, despite the roadmap being produced, the progress of the strategy itself remains unknown.

It is a common assumption that the completion of cultural training equates to cultural competency and safety in organisational settings.[43] Cultural training alone will not transform institutional systems as it treats structural problems as an individual knowledge deficit, which fails to expose gaps and hidden forms of exclusion experienced by Aboriginal peoples such as, cultural load, identity strain, and policies, funding models and decision-making structures that undermine their wellbeing.[44] Cultural training is not a 'cure all' solution for institutional racism or breaking down barriers that exist for Aboriginal peoples. To address the issues at their core, the systems and institutions that facilitate racial discrimination must be transformed so that cultural education is not reduced to a compliance exercise that sits on top of flawed structures.[45] TALS acknowledge the role that cultural competency training plays as a component of reform, however it must not be become a proxy for organisational transformation.

There is also risk in assuming that broad consultation with ACCO's or the Aboriginal community equates to an institution or organisation being deemed 'culturally competent'.[46] Tokenistic consultation or hiding behind 'co-design' without enabling real decision-making authority may in fact undermine rather than strengthen governments' claims to being culturally competent, which subsequently will further erode Aboriginal trust in systems and institutions.[47] To ensure systems are truly culturally responsive, competent and safe, and drive progress against the Agreement's targets, governments must move from commitment to action by embedding community-led service responses, shared governance and decision-making power with ACCOs. Developing mechanisms that measure cultural competency will also hold government systems accountable to their

[38] Ibid.
[39] Ibid.
[40] Ibid (n 6).
[41] Ibid (n 18).
[42] Ibid.
[43] Australian Commission on Safety and Quality in Health Care, *Improving Cultural Competency* (accessed 26 March 2026).
[44] Diversity Council Australia, *Leading Practice* (accessed 26 March 2026).
[45] Flynn, E, *Cultural Awareness Training Is Not A Punishment, Or A Cure-All For Institutional Racism*, Indigenous X (6 November 2015).
[46] Ibid (n 44).
[47] Australian Human Rights Commission, *Self-determination and Indigenous peoples* (4 August 2023).

commitment to being culturally responsive and safe.[48] Additionally, it will enable governance structures of the Agreement to identify gaps, establish baselines, track improvement, and determine whether efforts are delivering on Priority Reforms.[49]

The Agreement risks being absorbed into existing government structures and programs, rather than being a transformative framework, if governments do not commit to a systemic and structural transformation of mainstream organisations.[50] Simply adding Aboriginal programs or modifying or re-labelling existing government systems is not transformative, can dilute Aboriginal-specific targets and obfuscate accountability to outcomes. In fact, there is already critique of governments absolving themselves of accountability regarding the lack of progress on the Agreement's targets, despite well documented issues of underfunding, lack of transformation and failures in sharing decision-making power with Aboriginal peoples being cited as barriers to meeting targets.[51]

Governments retain substantial power over decision-making and the implementation of the Agreement, despite their commitments made to the Priority Reforms. Ultimately, governments control legislation and funding allocation, which at times can directly conflict with the objectives of the Agreement and community recommendations and needs.[52] This can result in ACCOs, Aboriginal peoples and communities feeling like they are repeatedly consulted without seeing the tangible changes that reflect their input, especially when government funding decisions can remain opaque.[53] In the 2024 review of the Agreement, the Productivity Commission concluded that this existing power arrangement reinforced the imbalance between governments and the Aboriginal community, and that governments had not yet demonstrated the level of systemic transformation contemplated by the Agreement. Moving forward, the Productivity Commission implored shared decision-making that involves funding being aligned with jointly agreed community priorities and identified that governments need to cease their 'government knows best' approach that undermines genuine structural transformation and reinforces historical power imbalances.[54]

Building the Community-Controlled Sector

A key finding of the Productivity Commission's 2024 review of the Agreement was that governments had not adequately shifted funding, authority and service-delivery responsibilities towards ACCOs, despite recognising the importance of this transition.[55] The central concern was that governments have simply continued to operate through established funding and service-delivery systems rather than making the structural changes outlined in the Agreement.[56]

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[48] Department of Families, Fairness and Housing, *Dhelk Dja Monitoring, Evaluation and Accountability Plan*, Victorian Government (22 July 2020).
[49] Ibid.
[50] Ibid (n 29).
[51] Turner, P, *It is time governments front up to their failure to Aboriginal and Torres Strait Islander people,* Coalition of Peaks (accessed 7 October 2026).
[52] Productivity Commission, *Review of the National Agreement on Closing the Gap: Study Report Supporting Paper Volume 2*, Australian Government (January 2024).
[53] Ibid.
[54] Ibid.
[55] Ibid (n 18).
[56] Ibid.

The core problems identified in 2024 remain. While there has been some progress in reporting, planning and developing measurement frameworks, there is not yet sufficient data to demonstrate that governments have substantially increased funding to ACCOs or delivered the full change envisaged by Priority Reform 2.[57] The lack of data creates challenges in verifying structural change, while any progress towards improved funding and capacity building models, that align with the Agreement's targets, remains unverified.

Governments may support community control in principle; however, they continue to retain control over funding and service delivery in practice. In fact, within the limited measures available, it has been found that governments often impose and fund generic, pre-existing mainstream program models rather than empowering ACCOs to develop approaches in line with community needs.[58] This strategy simply defers service delivery to non-government entities, as opposed to transferring decision-making authority ACCOs which facilitates self-determination and helps build their capacity.

An example of this can be found in the Tasmanian Government's 2023 commitments under the *National Plan to End Violence Against Women and Children,* which align with target 13 of the Agreement.[59] These commitments include two activities:

- To prevent and respond to family and sexual violence in Tasmanian Aboriginal communities. This is a community co-design commitment.
- Increase legal assistance for people experiencing family and sexual violence via Women's Legal Service Tasmania ('WLS') and Tasmania Legal Aid ('TLA') who were identified as primary delivery providers.[60]

While both activities remain 'in planning', indicating that progress has stagnated, is noted that the Tasmanian Government's activity to increase legal assistance for people experiencing family and sexual violence does not explicitly identify TALS or SiS as primary delivery providers. This is despite TALS and SiS being the only ATSILS and FVPLS in Tasmania. To build the capacity of FVPLS and ATSILS in Tasmania, and meet commitments made under the Priority Reforms, the Tasmanian Government must include Aboriginal-led services as primary delivery providers and contribute appropriate, long term, funding and resources to Aboriginal-led sectors.

Failures to build capacity, transfer decision-making authority and adequately fund and resource ACCOs can see gaps in service delivery manifest. ACCOs may lack the workforce, sector expertise or infrastructure to assume additional responsibilities, placing further pressure on organisations during service delivery, and limiting progress towards Priority Reforms. Essentially, in maintaining control over decision-making and funding, governments could be viewed as transferring responsibility and accountability for service delivery to ACCOs, without transferring the sufficient resources and power to build their capacity to do so.[61]

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[57] Ibid.
[58] Ibid (n 10).
[59] Department of Social Services, *Activities for the Aboriginal and Torres Strait Islander Action Plan*, Australian Government (9 December 2025).
[60] Ibid.
[61] Collard, S, *Governments are leaving 'heavy lifting' on Closing the Gap to underresourced Aboriginal groups, review finds*, The Guardian (23 June 2025).

How governments invest in the community sector impacts the efficiency and effectiveness of service delivery. Often governments allocate funding via inflexible, short term models, that undermine the sectors' ability to deliver effective, long-term programs, build community trust, remain fluid to changing social needs and maintain workforce stability.[62] Short term funding can also create an industry churn, where organisations repeatedly establish, evaluate and conclude successful initiatives instead of embedding them long term.[63] This also impacts staffing, as valued, skilled employees may leave an organisation, or not seek out roles, as they strive for long term job security.

While governments can make funding commitments, there are often lengthy delays on agreements being signed off and funds being distributed.[64] These delays are attributed to excessive government red tape, poor funding frameworks and lack of government efficiency [65] and severely impacts the delivery of services that the funding is intended to support. Additionally, delays in receiving funding can impact on ACCOs and other non-government organisations trying to acquit money at the end of an agreed term or see them face the prospect of returning funds which could be perceived as them 'not needing it' when in fact the funds have not been spent due to government delays at the onset.[66] TALS are currently experiencing an example of this, where they have not been able to access agreed funding for 4 months, as they are yet to even receive an agreement to review or sign.

Lastly, the inter-agency competition for funding can drive a high turnover of service providers, which is less efficient, poor value for public money, and is largely reduced to a process that sees pre-existing services duplicated in a 'business as usual approach' that may be misaligned with changing community needs.[67] Governments simply cannot build a strong, sustainable ACCO sector while funding arrangements continue to favour competition for short-term contracts over long-term investment that builds the capacity of the community-controlled sector.

Current funding arrangements continue to fall short of recognising the strengths, expertise and operational realities of ACCO led service delivery. As it stands, ACCOs are treated more as passive recipients of government funds with limited control over program design and delivery.[68] The current funding environment is characterised by administrative complexity, power imbalances, inadequate resourcing and rigid rules that limit responsiveness and undermine self-determination. Existing funding models also fail to recognise the true costs of delivering holistic, culturally safe and community-controlled services, constraining ACCOs' ability to invest in their workforce, strengthen their organisational capability and deliver safe support services for Aboriginal peoples.[69]

TALS have previously challenged funding agreements that undermine or omit the principles of the Agreement and always seek equal expectations on funding agreement points to mitigate power imbalances. TALS maintain that

[62] Social Ventures Australia, *Department of Social Services: Reforms to strengthen the community sector* (March 2024).
[63] Ibid.
[64] Schulz, M, *Feds unveil new grants framework for community sector*, SmartyGrants (6 March 2025).
[65] Ibid.
[66] Australian Council of Social Service*, Improving community sector effectiveness and efficiency: priorities for reducing red tape* (24 February 2012).
[67] Ibid (n 62).
[68] Ibid (n 10).
[69] SNAICC, *Doing things differently: Funding ACCOs to keep families together* (July 2026).

governments, or other funding bodies, must be held accountable to the same standards they expect of those receiving funds.

The Productivity Commission's 2024 review documented instances in which mainstream non-government organisations competed with ACCOs to deliver services to Aboriginal peoples. It also stated that some mainstream providers partnered with ACCOs to improve their competitiveness when bidding for contracts.[70] This approach does not build the capacity of the community-controlled sector and could be argued that it continues to perpetuate the imbalance in funding directed towards ACCOs and devalues their role as a genuine decision-making partner. By simply including ACCOs in mainstream services, Aboriginal-specific accountabilities can be diluted and the Agreement risks being absorbed into existing government frameworks rather than being truly transformative.

Governments must better connect with the issues faced by ACCOs and be wary of framing 'capacity building' in a manner that wrongly positions ACCOs as the source of implementation problems. This proposition absolves governments of responsibility and accountability, despite them creating conditions that potentially undermine the very capacity governments expect ACCOs to demonstrate.[71] The Productivity Commission have previously reported limited overall progress in building the capacity of the community-controlled sector, identifying unchanged government funding guidelines, short and uncertain contracts, limited co-design and a lack of shared decision-making as primary reasons.[72] They have also identified an unwillingness for governments to address power imbalances in funding arrangements and provide funding transparency meaning that decisions remain opaque.[73] These findings raise an important accountability concern, where governments exacerbate capacity deficits and use ongoing 'capacity building' as a substitute for sharing power and transforming their own systems.

There remains a wide gap between rhetoric and action, where governments do not seem to have grasped the nature and magnitude of what they committed to.[74] To better build ACCO capacity moving forward, governments must fund governance and workforce development, infrastructure, policy expertise and evaluation. The funding model must be long-term to ensure capacity can be built and sustained, and it must be separate from service-delivery funding contracts to better measure outcomes. Additionally, governments must be more transparent in explaining how community-control, local priorities and ACCO capacity-building are considered when awarding service contracts, funding and resources. This will drive greater government accountability and enable better measurement of capacity-building progress.

Data and Information

Priority Reform 4 aims to ensure Aboriginal peoples have access to, and the capability to use, locally relevant data to set priorities, monitor progress and drive self-determination.[75] To facilitate this, governments and ACCOs

[70] Ibid (n 10).
[71] Australian Indigenous Governance Institute Limited, *Submission: Senate Select Committee on Measuring Outcomes for First Nations Communities* (7 March 2025).
[72] Ibid (n 10).
[73] Ibid.
[74] Siegel-Brown, N, *Closing the Gap data: the proof in the pudding?,* Productivity Commission (2 August 2024).
[75] Closing the Gap, *Priority Reform Four - Shared Access to Data and Information at a Regional Level* (accessed 13 October 2026).

have committed to forging partnerships between Aboriginal representatives and government organisations to guide the improved collection, access, management and use of data to inform shared decision-making.[76] Furthermore, governments have agreed to provide Aboriginal communities access to the same data and information they use to make decisions, and have committed to ensuring data security and integrity.[77]

There are two primary concepts to consider with the collection and use of data relating to Aboriginal peoples. Indigenous Data Sovereignty is the principle that Aboriginal peoples have the right to own, control, access and govern data about their peoples, communities, cultures, lands and resources.[78] It also recognises that data can influence government policy, funding decisions and resource allocation and that Aboriginal peoples should determine how data relating to them is collected, used, interpreted and shared.[79] This reflects a shift away from governments collecting data *about* Aboriginal peoples towards supporting the Aboriginal community to use data for their own priorities and to inform decision-making.

Second there is the principle of Indigenous Data Governance, which is the is the practical application of Indigenous Data Sovereignty. It refers to the frameworks, policies, decision-making processes and accountability mechanisms that enable Aboriginal peoples to exercise authority over Indigenous data. This includes determining who can collect, access, analyse, store and share data to ensure that data use aligns with Indigenous cultural values, community priorities and ethical standards.[80]

The Productivity Commission's 2024 review was particularly critical of progression toward Priority Reform 4. It stated that little progress had been made in reforming or developing data systems, which sees ACCOs still experience difficulties in accessing data, and contributes to a lack of local detail found in government data.[81] This results in government data sets being void of Aboriginal Data Sovereignty principles, not reflecting what communities consider important and pushing deficit-based narratives that can cause harm.[82] The Productivity Commission concluded that the absence of a framework informed by Indigenous Data Sovereignty and Governance principles means that government were merely collecting more data without actually improving outcomes for Aboriginal peoples.[83] Moving forward to 2026, an adequate measurement framework for the Priority Reforms remains unavailable, despite some small improvements being made in capturing socio-economic data against the Agreement's targets.[84]

In Tasmania we are only now seeing movement towards Priority Reform 4, as outlined in *Tasmania's Plan for Closing the Gap 2025-2028*. Under this plan, the Tasmanian Government have committed to the action of developing and implementing a Closing the Gap *Data and Data Sovereignty Strategy*, which will include a framework for data access and Aboriginal data governance and sovereignty. Formal delivery of the completed

[76] Ibid.
[77] Ibid.
[78] Maiam nayri Wingara Indigenous Data Sovereignty Collective and the Australian Indigenous Governance Institute, *Indigenous Data Sovereignty* (20 June 2018).
[79] Ibid.
[80] National Indigenous Australians Agency, *Framework for Governance of Indigenous Data*, Australian Government (30 May 2024).
[81] Ibid (n 10).
[82] Ibid.
[83] Ibid
[84] Ibid (n 18).

Data and Data Sovereignty Strategy is planned for 2027–28.[85] Whilst this commitment is a positive development, it also raises questions about the pace of implementation given the Agreement dates from 2020, and the Productivity Commission have highlighted the importance of Indigenous Data Sovereignty since their 2024 review.

We are now six years into the Agreement without a functioning national outcome measure for the Priority Reforms. This is a substantial accountability gap and reflects broader structural issues regarding governments reluctance to change systems and reform relationships with Aboriginal communities. Improvements in information sharing will have limited transformative effect if governments retain control over the data systems and methods through which Aboriginal peoples and communities are measured, classified and assessed. Governments must change data practices so that Aboriginal peoples have authority over what data is collected, how they are represented, how information is interpreted and how it is used to inform decisions. Ultimately, governments must recognise Aboriginal peoples' rights to exercise ownership over their data by explicitly recognising and supporting Indigenous Data Sovereignty.

The ongoing absence of a Priority Reforms outcome measurement framework, and the subsequent data, is a significant barrier for governments. It impedes their ability to assess progress, identify the changes required and to hold themselves accountable to community expectations.[86] This results in governments, ACCOs and Aboriginal communities being stuck in a cycle of constant review with no tangible outcomes, as current accountability arrangements lack sufficient independence, consequences for failure and effective evaluation.[87]

It is critical that efforts to recognise Indigenous Data Sovereignty are met with action. As stated, measurement limitations make it difficult to determine the actual progress toward Priority Reforms and the impact of the Agreement. Additionally, both the Australian Bureau of Statistics[88] ('ABS') and Australian Institute of Health and Welfare[89] ('AIHW') have raised issues regarding inconsistencies in gathering and interpreting data relating to Aboriginal social health. This is a particular concern in Tasmania, where there are frequent gaps in local data. This suggests that there are insufficient mechanisms for Aboriginal peoples to engage in data collection, resulting in governments and community partners relying on national data that may conceal more localised issues.

Lastly, it is imperative that when developing data frameworks with Aboriginal communities that the government respect and understand the broader definitions of Indigenous data. Without context, quantitative data alone can reinforce deficit based narratives and overlook social and cultural intangibles that are critical in not only understanding the localised needs of community, but to also to drive self-determination as to the narrative behind the data and how it is shared and interpreted.[90]

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[85] Ibid (n 24).
[86] Ibid (n 18).
[87] Ibid (n 10).
[88] Australian Bureau of Statistics, *Submission to Productivity Commission Review of the National Agreement on Closing the Gap* (12 December 2022).
[89] Australian Institute of Health and Wellbeing, *National best practice guidelines for collecting Indigenous status in health data sets*, Australian Government (8 April 2010).
[90] Miller, H and Dixie, L, *Getting to Grips With Indigenous Data: An Actuaries Institute Report exploring aspects of Indigenous Data Governance and Sovereignty*, Actuaries Institute (September 2024).

Peripheral Issues

Aboriginal peoples remain the most disadvantaged and marginalised group in Australia and it is widely accepted that systemic discrimination, intergenerational trauma and social prejudice experienced by Aboriginal peoples have been the primary drivers of this.[91] This disadvantage results in Aboriginal peoples being overrepresented in the adult and youth justice systems, and in out of home care, while also disproportionately experiencing a range of social health issues.[92] These issues are acknowledged in the Agreement and inform its socio-economic targets. To truly address this, governments must action the plans outlined in the Agreement to progress Priority Reforms, which will contribute to an upward trajectory across the 19 socioeconomic targets. Most importantly, governments must shift from planning to action, by investing in the Aboriginal-controlled sector long term and establishing measurement frameworks that deliver transparency and accountability.

Community support services in Tasmania are chronically underfunded, despite an increase in demand.[93] This results in significant gaps in support provision, including legal, mental health, child, family and youth and Aboriginal-led services.[94] Underfunding support services exposes the community to serious risk, hinders community safeguards and places significant strain on support providers.[95] By not having adequate mechanisms and provisions in place to support them, the Tasmanian Government are simply letting down the state's most vulnerable people.[96] In relation to Aboriginal peoples, the Tasmanian Government's failure to adequately fund, empower and resource ACCOs to operate supports services contradict the their commitments as a signatory to the Agreement and exposes the Aboriginal community to ongoing disadvantage.

For transparency, it must be stated that TALS are not directly provided any baseline legal assistance funding by the Tasmanian Government for the provision of legal services to Tasmanian Aboriginal peoples. All funding received by TALS from the Tasmanian Government is a redirect of federal funding. Funding constraints also mean that SiS cannot operate as a stand-alone service, rather it is required to co-locate with TALS. The impact of this is that victim-survivors seeking SiS services are forced to be among potential family violence perpetrators. In these situations, Aboriginal victim-survivors access to culturally safe legal and non-legal support services is severely impeded, meaning that the Tasmanian Government is undermining its commitment to the Agreement, specifically in relation to targets 11 through 13.

Another concern is that the Agreement's reviews themselves risk becoming a substitute for corrective action. From the Productivity Commission's 2024[97] review, their follow up *July 2026 Annual Data Compilation Report*[98] and the questions posed in the current 2026 review, there is a clear pattern of governments acknowledging shortcomings, recommending further development of implementation strategies and then still seeing same

[91] Australian Law Reform Commission, *Social determinants of incarceration*, Australian Government (9 January 2018).
[92] Ibid.
[93] Tasmania Coalition of Community Service Peaks, *Coalition warns essential community services are at breaking point ahead of Tasmanian budget* (23 March 2026).
[94] Ibid.
[95] Ibid.
[96] Australian Institute of Criminology, *Effective strategies in working with young offenders*, Australian Government (29 April 2008).
[97] Ibid (n 10).
[98] Ibid (n 18).

outcomes as the underlying distribution of power, resources and decision-making authority remain largely unchanged.

Governments have repeatedly acknowledged shortcomings yet have not been held accountable for failing to address them.[99] However it is acknowledged that accountability for failures, and the ability to identify better ways forward, remains difficult due to the lack of a robust measurement framework. This is an issue that has been identified since 2024, yet governments continue to stall on establishing the independent accountability mechanism envisaged under the Agreement despite deteriorating outcomes across a range of social determinants.[100] Normalising failure and simply cycling through reviews without properly addressing the conditions that contribute to failure must not be the default setting for governments.

There is evidence that failures are framed in a manner that is biased toward implementation. This seemingly absolves governments as they transfer responsibility and accountability for implementation to ACCOs, despite governments gatekeeping decision-making power and funding allocation.[101] With repeated poor outcomes, it cannot be assumed that the Agreement itself is fundamentally sound and that failures are purely the result of implementation or ACCO capacity issues. The implementation failure narrative allows governments to avoid examining their own institutions, systems and resistance to reform, which has been identified as a concern since the 2024 review. In the 2024 review the Productivity Commission were particularly critical of the 'business as usual' approach by governments that avoided the true structural and funding transformation required to empower ACCOs to effectively implement initiatives.[102] Moving forward, TALS maintain the position that reviews of outcomes against the commitments made in the Agreement should invite a more robust critique of the Agreement itself. This will help identify fundamental failures and not be biased towards implementation practices that are hindered by government inaction. Aboriginal organisations and communities should not have the burden of failure thrust onto them, especially when government institutions responsible for reform are not held to an equivalent standard.

Lastly, to truly progress Priority Reforms and see a positive upward trend against socioeconomic measures, there must be a shift from activity or implementation being a measure of success. Whilst any forward movement can be positive, the implementation of an initiative, or activities such as developing actions plans or conducting ongoing reviews can be a proxy for success as they have not actually demonstrated a tangible result. As there are limited measurement frameworks to review outcomes, governments can simply report these activities as evidence of progress without demonstrating their impact.[103] This can see governments be credited as being 'transformative' without having demonstrated that authority and decision-making have been transferred to Aboriginal communities.

[99] Ibid (n 10).
[100] Ibid (n 10).
[101] Ibid (n 62).
[102] Ibid (n 10).
[103] Ibid.

RECOMMENDATIONS

In summary, TALS recommends that the Productivity Commission use the 2026 review of the Agreement to call on governments to:

1. Strengthen shared decision-making by ensuring all Aboriginal peoples and their representative organisations have genuine influence over policy development, implementation and evaluation.
2. Establish stronger independent accountability mechanisms to monitor implementation of the Agreement, assess whether governments are meeting their commitments, and to inform responses where reforms are inadequate and outcomes are regressing.
3. Provide sustainable, long-term funding for ACCOs that reflects the true cost of service delivery and supports workforce development, infrastructure, governance and organisational capacity.
4. Measure outcomes, not just activity, by requiring governments to demonstrate tangible progress against the Priority Reforms, including evidence of changes to decision-making power, transformation of government practices and the way services are designed and delivered.
5. Support the strengthening of representation and participation in governance, while respecting existing arrangements, to ensure the diversity of Aboriginal peoples, communities and organisations is reflected in decision-making.
6. Require transparent reporting on implementation so that governments report not only on strategies, plans and consultation processes, but also how practices have been transformed and whether they are improving life outcomes for Aboriginal peoples.

CONCLUSION

TALS thanks the Productivity Commission for the opportunity to prepare a submission, and contribute to, the 2026 review of the Agreement.

The 2026 review of the Agreement presents an opportunity to confront a fundamental question: whether the Agreement is failing because governments and ACCOs have struggled to implement it, or because governments have failed to undertake the structural transformation required.

Since the Agreement commenced in 2020, successive reviews have identified persistent shortcomings in shared decision-making, the growth of ACCOs, government transformation and accountability. The Productivity Commission's 2024 review highlighted the limited extent to which governments had changed their existing practices, while the available 2026 outcome data highlights that the same issues persist. This raises legitimate concerns about whether the Agreement is producing meaningful institutional change or merely generating further commitments, reporting requirements and review processes.

Repeatedly framing of these shortcomings as implementation failures risks obscuring the question of government responsibility. Implementation is not separate from the systems responsible for delivering it. Where governments

retain control over funding, policy development, service delivery and the terms of engagement with Aboriginal peoples, they also retain considerable power to determine the extent to which the Agreement is realised. Simply attributing limited progress to implementation, without adequately examining underlying power relationships, risks shifting attention away from the institutional barriers that the Agreement was intended to resolve.

There is also a risk that repeated reviews normalise failure. When similar concerns are identified across successive reporting cycles, but commitments remain unmet and tangible change is limited, the process of reviewing and acknowledging shortcomings can become a substitute for accountability. Aboriginal communities should not be expected to repeatedly participate in consultation, provide evidence of systemic failures and contribute to reform without seeing demonstrable improvements in the conditions affecting their lives.

For Tasmania, these questions are particularly relevant. The extent to which shared decision-making is reflected in actual government practice, if one jurisdictional Coalition of Peak member reflects the diversity of the community and expertise, whether ACCOs have the resources to meet community needs, and whether mainstream institutions are changing their policies and practices must be assessed through evidence of tangible outcomes rather than stated commitments alone.

The 2026 review should resist viewing further implementation planning as an adequate response to persistent underperformance. Instead, it should examine whether governments have fulfilled the substantive obligations of the Agreement, identify the structural and institutional reasons for continued shortcomings, and establish clear mechanisms for data collection, corrective action and accountability. This includes measuring not only progress against socioeconomic targets, but also changes in decision-making power, resource allocation, institutional conduct and the capacity of Aboriginal peoples to determine their own priorities.

Ultimately, the success of the Agreement cannot be measured by commitments or the frequency of its reviews. It must be measured by robust data that informs how governments have transformed the way they operate, and the subsequent impact that has on Aboriginal communities.

If you have any questions regarding TAL's views offered in this submission, please reach out to me directly.

Warmest regards,

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