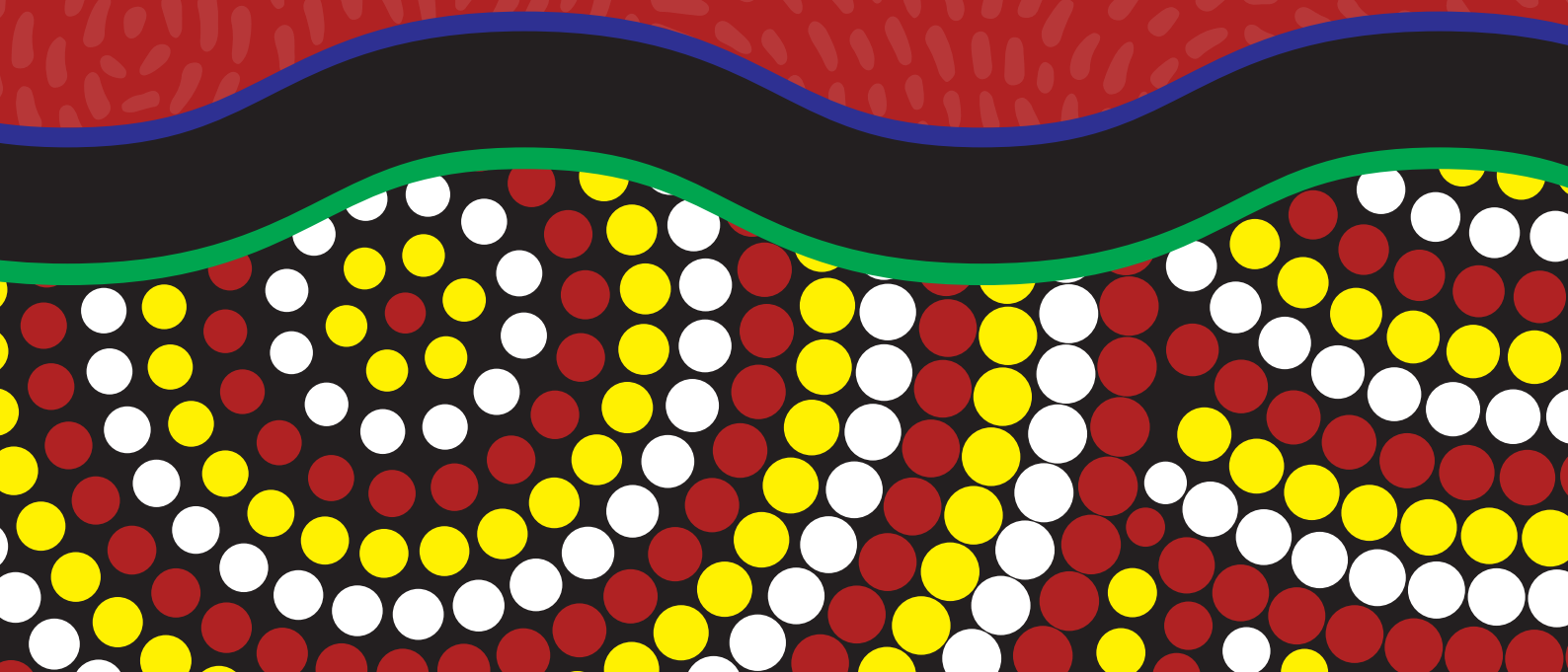


**Partnership Agreement
on Closing the Gap**

Health Check 2020

Prepared by Shane Hoffman



About the Reviewer

Shane Hoffman is a proud Iman man from Central Queensland. He retired from the Commonwealth Public Service in 2015 after a career spanning almost 40 years. He first entered the Senior Executive Service in 1992 and managed a number of Branches and Divisions across a range of Commonwealth Government agencies and departments over a period of about 20 years.

Shane also worked in the Aboriginal and Torres Strait Islander community-controlled sector playing a key role in establishing the first Aboriginal housing association in Central Queensland in the 1970s and was FAIRA's first International Officer advocating Indigenous rights before the United Nations Human Rights bodies in 1999-2000.

Shane was involved in reviews of the Aboriginal and Torres Strait Islander Community Services laws in Queensland and the Commonwealth's *Aboriginal and Torres Strait Islander Commission Act*. He led a team supporting the Referendum Council to conduct Regional Dialogues and the National Convention and was a member of the Treaty Working Group that presented a report to the Queensland Government on conversations held across that State on a Path to Treaty.

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Executive summary and Recommendations

In 2018, the Council of Australian Governments (COAG) committed to a genuine, formal partnership with Aboriginal and Torres Strait Islander representatives to develop the Closing the Gap strategy for the next decade.

Governments acknowledged the need for a respectful, collaborative approach with Aboriginal and Torres Strait Islander organisations and communities to achieve productive and sustainable outcomes.

To give effect to that commitment, the Partnership Agreement on Closing the Gap 2019-2029 (Partnership Agreement) was negotiated and agreed to by the Coalition of Peaks and the Council of Australian Governments (COAG) in March 2019. The Partnership Agreement provides an historic opportunity for Aboriginal and Torres Strait Islander perspectives to be heard and incorporated into policy and program dimensions across all levels of government.

The Partnership Parties committed to an annual Health Check of the Partnership Agreement and agreed to the development and subsequent annual review of a Partnership Risk Register. The objective of the Health Check is to review the state of the Partnership Agreement against success indicators agreed by the Parties. This report gives an account of the first Health Check and includes a draft Risk Register.

In recognition of the unique nature of the new arrangements, the transformational approach captured in the Partnership Agreement, and the Partners' relative inexperience in working in this way, it was agreed that an annual Health Check was appropriate to examine what has worked well and where improvements may be

made. It was accepted from the outset that this would be an evolving process over the life of the Partnership Agreement.

Soon after the Partnership Agreement came into effect the Parties agreed to negotiate, implement and monitor a new National Agreement on Closing the Gap (National Agreement) in accordance with the arrangements and principles elaborated in the Partnership Agreement.

This, the first of the annual Health Checks, is being conducted at a pivotal time for the Partnership Parties. The National Agreement has been negotiated and agreed, but work is just commencing on the next phase – implementation. Parties' responses to the Health Check were therefore largely informed by their experiences during the negotiations of the National Agreement and the anticipation of the work to come.

The negotiation of the National Agreement was a huge test for the Partnership Parties. It was the first task they had to undertake in the new spirit of working together in genuine partnership. Time was of the essence and there was very little time for reflection. However, many lessons were learned along the way.

In the spirit of continuous improvement, this Health Check considers the views of all the Parties and makes some recommendations for consideration.

This Health Check has found that the Partnership Agreement has been successful in achieving the coming together of the Coalition of Peaks and Governments in partnership to support the Parties' decision to negotiate a new National Agreement to

replace COAG's National Indigenous Reform Agreement (NIRA). All Parties reiterated their commitment to the Partnership Agreement and to maximising its potential.

The influence of the Coalition of Peaks on the National Agreement was affirmed by all the Parties and is evident in the final outcome. The prominence of the Priority Reforms as the centrepiece of the National Agreement stemmed from the initiative and advocacy of the Coalition of Peaks informed by the community engagements conducted by them before the negotiations.

The negotiation of the National Agreement was hailed as a major achievement when it was announced in July 2020. The Prime Minister stated that "... the first time a National Agreement designed to improve the lives of Aboriginal and Torres Strait Islander people has been negotiated directly with Aboriginal and Torres Strait Islander representatives."

The Coalition of Peaks responded, noting that the "historic" agreement is "... taking the country in a new direction to substantially improve life outcomes among Aboriginal and Torres Strait Islander people." They also applauded the "... pledge from all governments to fundamentally change the way they work with Aboriginal and Torres Strait Islander communities and organisations through four Priority Reforms that were overwhelmingly supported during the community engagements led by the Coalition of Peaks late last year."

Clearly the Parties believe the Partnership is making a difference, but they also caution that there is still a way to go.

In entering into the Partnership Agreement and the subsequent National Agreement, the Government Parties signed onto a very significant change agenda. It is clear that the Government Parties intended that the former ways of engaging with Aboriginal and Torres Strait Islander people and communities were to be replaced by a new approach – working collaboratively in genuine partnership with decision-making being shared. It also

constituted a shift for the Aboriginal and Torres Strait Islander representatives of the Coalition of Peaks in the way they work with governments.

Generally, all Parties agreed that the Partnership Agreement was successful in facilitating the negotiation of a National Agreement they could all sign up to. Not surprisingly though, there were several suggestions for improvement to the way the partnership is operating.

The following chapter, *Background and Terminology*, outlines the background to the Partnership Agreement Health Check and explains the concepts and terms used throughout this report. It is imperative that readers have a common understanding of these concepts in order to appreciate the reviewer's analysis and the approach to the recommendations.

Chapter Three, *Approach to the Health Check*, outlines the design of and approach to the Health Check that was agreed by the Partnership Working Group on 27 August 2020. This includes the Success Indicators and interview / survey methodology.

Chapter Four, *Evaluation and Recommendations* is the heart of the Health Check and includes the rationale for the recommendations made.

Chapter Five, *What the Partnership Partners Said*, contains a summary of the Partnership Parties' responses to the survey questionnaires. In the interests of transparency, all 11 completed responses have been shared amongst all Partnership Parties.

Finally, the recommended draft Risk Register is included at **APPENDIX A**.

Recommendations:

The reviewer proposes that these recommendations be considered in two stages so that the Parties can consider recommendations 1 to 3 (Stage One) at the Joint Council meeting in November 2020 and the remainder of the recommendations (Stage Two) at the first Joint Council meeting in 2021.

STAGE ONE

Initial consideration

Institutionalising consideration of the Partnership Agreement Health Check and Risk Register.

1. That sufficient time is set aside at the first Joint Council meeting each year to reflect upon and consider the findings and recommendations of the Partnership Agreement Health Check report and review the Risk Register, beginning with the first meeting in 2021.

Building a shared understanding of how the partners will work together going forward.

2. That a meeting of the Partnership Working Group is convened at the earliest opportunity for a frank and open conversation about the issues raised in this Health Check and how the divergent views of the Parties may be accommodated.

Publishing the Health Check report and Parties responses to the recommendations to help inform the deliberations of other partnerships forming under the National Agreement.

3. That this Health Check report and the Parties' response to the Stage One recommendations be made public following the Joint Council meeting in November 2020.

STAGE TWO

Actions required to strengthen the Partnership

Agreeing the Risk Register.

4. That the draft Risk Register at Appendix A is considered, and an agreed Risk Register is made public.

Developing a written protocol outlining expectations to support greater shared decision making.

5. That a protocol be agreed confirming that:
 - a. The Parties will seek to work together in partnership, build a shared understanding of each other's perspectives, noting that there is always room for robust but respectful discussion;
 - b. The Parties acknowledge that the Coalition of Peaks, as representatives of the community-controlled organisations accountable to their communities, feel the weight of their needs and expectations;
 - c. The Parties agree that the principles elaborated in the National Agreement extend to all partnerships between governments and Aboriginal and Torres Strait Islander organisations and communities;
 - d. All partnerships under the National Agreement are defined in writing clearly stating the who, how and what – who the partners are, how they will work together and what they agree to do together;
 - e. Arrangements are in place for the Coalition of Peaks to take a leadership role in the Partnership going forward;
 - f. Confidentiality arrangements when partnerships and implementation plans are being negotiated; and
 - g. The Parties agree to notify each other when any Party chooses to make a comment to the media about matters relating to the Partnership Agreement or implementation of National Agreement – not to silence anyone but to prepare for any positive or negative publicity.

STAGE TWO

Actions required to strengthen partnership

Embedding cultural change.

6. That the Government Parties agree that each jurisdiction will implement a change management process consistent with the National Agreement to embed within their institutions of government the cultural change required so the new arrangements become the norm and are not reliant on key individuals.

Formalising the Drafting Group function of sifting through the draft papers for the Partnership Working Group, canvassing the issues and attempting to iron out any areas of dispute before they are presented for consideration.

7. That the role of the Drafting Group be confirmed and formalised. Consideration should be given to the Drafting Group being co-chaired by a representative from one of the Government Parties and the Head of the Coalition of Peaks Secretariat.

Managing the work of Joint Council and the Partnership Working Group to promote greater transparency and full and equal participation.

8. That a Shared Forward Work Plan be agreed to enhance strategic planning, transparency, equal participation and shared decision making.
9. That the Shared Forward Work Plan be updated on each meeting to ensure its currency.
10. That, in conjunction with the Forward Work Plan, a written process be agreed between the Parties which supports:
 - a. Joint Council and Partnership Working Group (PWG) meeting dates being agreed at the beginning of each year so that all Parties can arrange their comprehensive and wholehearted participation;
 - b. Both Co-chairs agreeing meeting agendas and signing-off on any changes to dates, locations and / or agendas of meetings;
 - c. All Parties having authority to put forward proposals / papers for consideration by the PWG and submit them within the agreed timeframe for consideration;
 - d. The timeframes being sufficient to allow all Parties time to consult and prepare their positions, i.e. circulated to Drafting Group at least two days in advance and to the PWG at least seven days in advance of each meeting, with the Co-chairs together having authority to agree to exceptions;
 - e. Papers to PWG being agreed by the Drafting Group except for urgent and unforeseen papers which should then be signed off by the Co-chairs; and
 - f. Papers for Joint Council being agreed by the PWG.
11. Similar processes should be adopted by all jurisdictions in respect of the Jurisdictional Implementation Plans and other joint work under the National Agreement.

Resourcing of the Peaks and community-controlled sector.

12. The Coalition of Peaks should consider incorporating as a separate legal entity.
13. Funding should be guaranteed for the remaining period of the Partnership Agreement subject to a funding agreement negotiated between the Commonwealth and the Coalition of Peaks and on the condition that the Coalition of Peaks maintains a strong membership base and continues to function effectively.
14. Additional funding for the Coalition of Peaks should be considered in recognition of the change from a single focus to multiple actions across nine jurisdictions.
15. Consideration should be given to providing Peak bodies with additional resources so they can effectively support their community-controlled membership to fully participate in the arrangements.

STAGE TWO

Actions required to strengthen the Partnership

16. Consideration should be given to properly resourcing State and Territory Peak bodies to undertake their responsibilities and support their members.

Reviewing the Partnership Agreement and future annual Health Checks.

17. That the Parties agree that the Partnership Agreement be reviewed to ensure its alignment with the National Agreement.
18. That the Parties consider the design and approach and the Success Indicators and survey questionnaires used for this Health Check as the benchmarks for all subsequent annual Partnership Agreement Health Checks so that progress can be monitored in a consistent way against a baseline.

Sharing good practice.

19. That examples of good practice which have been endorsed by Aboriginal and Torres Strait Islander partners in the jurisdictions be shared by way of a Good Practice Portal or similar accessible to all Parties. This can be especially useful for governments building their own capacity to partner with Aboriginal and Torres Strait Islander people.

Publishing responses to Stage Two recommendations.

20. Responses to the Stage Two recommendations be made public after the first Joint Council Meeting in 2021 once the Partnership Working Group and Joint Council have had time to properly consider them.

Background and Terminology

Including a brief description of the Partnership Agreement and the meaning of concepts and terms used throughout this report

This Partnership Agreement Health Check is conducted pursuant to Clause 33 and the Risk Register developed pursuant to Clause 34 of the Partnership Agreement.

The Parties agreed that the Coalition of Peaks engage an independent Aboriginal and / or Torres Strait Islander consultant to conduct the Health Check on behalf of all Parties. The reviewer was engaged following a procurement process conducted by the Coalition of Peaks, and the reviewer's appointment was confirmed by the Partnership Working Group Secretariat. The costs of the independent review were met by a grant to the Coalition of Peaks from National Indigenous Australians Agency (NIAA).

It is important to understand the nature of the Partnership Agreement and the National Agreement that was negotiated as a consequence. To this end, the following paragraphs explain the concepts, acronyms and abbreviations used throughout the report.

The **Partnership Agreement** refers to the Partnership Agreement on Closing the Gap 2019-2029 entered into between the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (**Coalition of Peaks**) and the then Council of Australian Governments (**COAG**) on 22 March 2019.

COAG was replaced by the **National Federation Reform Council** and **National Cabinet** in May 2020. For the purposes of the Partnership Agreement the **Government Parties** include the Commonwealth and all state and territory governments and the Australian Local Government Association (**ALGA**). In some instances, the terms 'governments' and 'jurisdictions' are used

interchangeably to refer to some or all of the nine governments of the Commonwealth federation. They are the Commonwealth, New South Wales (**NSW**), Victoria (**VIC**), Queensland (**QLD**), Western Australia (**WA**), South Australia (**SA**), Tasmania (**TAS**), Australian Capital Territory (**ACT**) and the Northern Territory (**NT**). These abbreviations are used throughout this report.

The **Coalition of Peaks** comprises more than 50 community-controlled Aboriginal and Torres Strait Islander national, state and territory Peak bodies and certain independent statutory authorities which have responsibilities for policies, programs and services related to the self-determination and life outcomes of Aboriginal and Torres Strait Islander people. All have governing boards elected by Aboriginal and Torres Strait Islander communities and / or organisations which are accountable to their membership.

Aboriginal and Torres Strait Islander Community Controlled Peak bodies (**Peak bodies** or **Peaks**) are those organisations formed to advocate for and provide support to Aboriginal and Torres Strait Islander community-controlled organisations in the various sectors, e.g. health, legal services, family violence, child protection, Stolen Generations, land and media. They exist at both national and state / territory levels. Some national Peaks have state / territory affiliates, e.g. National Aboriginal Community Controlled Health Organisation (NACCHO), National Aboriginal and Torres Strait Islander Legal Services (NATSILS). Others do not, e.g. Australian Indigenous Doctors Association (AIDA).

In some states and the Northern Territory, Peaks have formed themselves into coalitions – NSW Coalition of Aboriginal Peak Organisations (**NSW CAPO**), VIC Aboriginal Executive Committee (**VIC AEC**), Aboriginal Peak Organisations of the Northern Territory (**APO NT**), South Australian Aboriginal Community Controlled Organisations Network (**SAACCON**) – to better represent the interests of their member organisations including in relations with state and territory governments. Most of these state / territory Peak coalitions include other significant Aboriginal and Torres Strait Islander organisations in their jurisdictions with an interest in Closing the Gap as members and have procedures to allow others to apply. Peaks in other states are likely to form themselves into coalitions in the coming months in order to support increased engagement and representation from Aboriginal and Torres Strait Islander community-controlled organisations in implementing the National Agreement.

The Parties to the Partnership Agreement (referred to as the **Partnership Parties**) are the Coalition of Peaks and the Government Parties.

The National Agreement on Closing the Gap (**National Agreement**) was negotiated in accordance with the principles and structures elaborated in the Partnership Agreement. It came into effect on 27 July 2020, replacing COAG's National Indigenous Reform Agreement (NIRA) which commenced in 2008.

The National Agreement extends the shared decision-making and partnership approach of the Partnership Agreement from between governments and the Coalition of Peaks to more partnership arrangements with other Aboriginal and Torres Strait Islander organisations and communities.

A critical innovation of the new National Agreement is the commitment to four Priority Reform Areas for Joint National Action (**Priority Reforms**):

Priority Reform One

Formal partnerships and shared decision-making – The Parties commit to building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments to accelerate policy and place-based progress against Closing the Gap.

Priority Reform Two

Building the community-controlled sector – The Parties commit to building formal Aboriginal and Torres Strait Islander community-controlled sectors to deliver services to support Closing the Gap.

Priority Reform Three

Transforming government organisations – The Parties commit to systemic and structural transformation of mainstream government organisations to improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people.

Priority Reform Four

Shared access to data and information at a regional level – The Parties agree that disaggregated data and information is most useful to Aboriginal and Torres Strait Islander organisations and communities to obtain a comprehensive picture of what is happening in their communities and to make decisions about their futures.

Together with the Coalition of Peaks, the Government Parties have also committed to targets for the **Priority Reforms**, which will measure the change governments are making in the way they work with Aboriginal and Torres Strait Islander people, as well as **socio-economic targets** which focus on measuring the outcomes experienced by Aboriginal and Torres Strait Islander people.

The National Agreement also sets up a process of implementation planning to achieve the Agreement's objectives and outcomes. Each Party to the Agreement will develop an **Implementation Plan**, relevant to its responsibilities and commitments. There are also shared actions, and shared accountability and oversight mechanisms, requiring ongoing shared decision-making through the Partnership.

Jurisdictional Implementation Plans will be developed and delivered in partnerships between governments, the Coalition of Peaks and other Aboriginal and Torres Strait Islander partners.

Explanation of Key Concepts

In the context of the Partnership Agreement and this Health Check, the meanings attributed to the following key concepts are set out below:

Different cultural perspectives to governance add a complexity to the Partnership that is not found in partnerships between governments and non-Indigenous parties, where formal partnerships, as a way of working together, reflects the dominant Western form of governance. It is expected that the representatives come to negotiations able to represent their Parties' interests. The members of the Coalition of Peaks, however, bring a different cultural perspective to Partnership governance, one that obliges them to obtain the authority of the organisations they represent before they can claim legitimacy.

This means that:

1. Time must be allowed for proper consultations with their membership;
2. Individual members cannot represent the Coalition of Peaks or their own Peak organisation without first obtaining authority and legitimacy from the Coalition of Peaks as a whole or from their own individual Peak membership.

Power imbalance refers to the relative balance of power between the Partnership Partners noting there is a structural imbalance: Governments control most of the levers required to make a difference in the life outcomes of Aboriginal and Torres Strait Islander people, i.e. the level of resources to be contributed, e.g. funding and government effort, and also the operation of the systems of government that impact on their lives. The Coalition of Peaks brings moral authority and on the ground policy and practice expertise, and a willingness to energise and mobilise the Aboriginal and Torres Strait Islander community-controlled sector which it represents.

One of the issues the Health Check seeks to evaluate is whether governance arrangements under the Partnership Agreement have been successful in addressing this power imbalance. These include:

1. A Ministerial Council of Australian Governments and Aboriginal and Torres Strait Islander People on Closing the Gap (**Joint Council**) on which Ministers nominated by the government parties, the ALGA and 12 members nominated by the Coalition of Peaks are represented. The Parties agreed that the Coalition of Peaks have additional representation at the Joint Council to assist in their voices being heard, noting that decision-making is still by consensus. The co-chairs are the Commonwealth Minister and the Lead Convener of the Coalition of Peaks.

2. A Partnership Working Group (**PWG**) consisting of deputy senior officials from each jurisdiction plus the ALGA and the Coalition of Peaks with no limit of the number of members who can attend meetings. The co-chairs are the Commonwealth Deputy Senior Official and the Lead Convener of the Coalition of Peaks.
3. A Drafting Group with representatives from the Commonwealth, Western Australia, Victoria and the Coalition of Peaks was put in place to facilitate the negotiation and drafting of the National Agreement.
4. The Secretariat to the Joint Council and the PWG is located in the National Indigenous Australians Agency (**NIAA**).
5. Funding from the Commonwealth to the Coalition of Peaks to support its participation, including its own Secretariat under the auspices of NACCHO.

Consensus decision-making means that a decision is taken only when all Partnership Parties agree with a proposition or proposal or recommendation. The idea is for the Parties to talk through any concerns or disagreements, put their respective arguments in support of their positions and seek to persuade the other parties to agree. If they cannot reach a consensus, then a decision is not taken. In effect, this means that each Party has an effective veto.

Open and transparent means the partners inform each other of, and share, relevant information and data that are available and necessary for good decision-making. Information and / or data are not withheld from the other partner, nor are they provided in a piecemeal fashion to distort decision-making to favour one of the partners.

Whole-of-government requires the principles elaborated in the Partnership Agreement and extended by the National Agreement to be understood and applied across all areas of government, not just the agency with responsibility for Aboriginal and / or Torres Strait Islander policy.

Working in partnership means that the relationship is defined by a formal agreement encompassing who the partners are, what they have agreed to do (desired outcomes) and how they will work together.

Equal participation can only occur when all Parties have equal opportunities to access all decision-making forums and are provided with the same information and have sufficient time and resources to fully consider the matters for decision.

Shared decision-making requires equal participation as defined above and means that processes are in place to ensure all Parties are able to exercise their power to make decisions under the Partnership Agreement together with all the other Parties. There cannot be separate processes for decision-making which do not involve all of the Parties.

Approach to the Health Check

The approach to design and delivery of this, the first Partnership Agreement Health Check, was endorsed by the PWG at its meeting on 27 August 2020. The approach is elaborated in the Framework at **Appendix B**. The Success Indicators against which the health of the Partnership was evaluated are included at Attachment 1 of the Framework.

The Health Check was conducted using interviews and a survey for Parties to reflect on the functioning of the Partnership against agreed Success Indicators. Copies of the survey questionnaires are attached to the Framework (Attachments 3, 4 and 5).

The reviewer conducted a series of interviews, 14 in all: one with a representative of each of the nine governments; one with each of the co-chairs of the PWG; one with the ALGA; and one each with the Secretariat to the Coalition of Peaks and the Secretariat to the Joint Council and PWG. Please see over page the list of the positions of the officials interviewed and the Partnership Party they represented.

The survey was conducted by obtaining responses to a series of structured questions: one questionnaire from each of the 10 Government Parties and one from the Coalition of Peaks. The reviewer conducted two facilitated teleconferences with the latter to complete their response to the questions. These were subsequently confirmed at later teleconferences. The survey responses from the Coalition of Peaks and all 10 Government Parties were shared amongst the Partnership Parties.

This Health Check is informed by the interviews and by the responses to the survey. It was agreed that interviews would remain confidential between the reviewer and the officials interviewed but that the completed survey responses would be shared among the Parties.

The reviewer would like to thank the Parties for their cooperation with the Health Check both by completing and returning the questionnaires and by participating in the interviews.

It is important to note that, in conducting this Health Check, the reviewer has sought to balance the views of the Partnership Partners, i.e. the Coalition of Peaks on the one hand and Government Parties on the other. This is critical as a greater proportion of the input was received from the Government Parties. It would not be fair to consider 10 Government Parties' views weighed against just one Coalition of Peaks' view. Hence the voice of the Coalition of Peaks is given equal prominence to that of Government Parties throughout this report.

Positions of Officials Interviewed

Partnership Working Group Co-chairs:

Lead Convener, Coalition of Peaks

Deputy Chief Executive Officer, National Indigenous Australian Agency

Governments:

Commonwealth	Chief Executive Officer, National Indigenous Australians Agency
New South Wales	Principal Policy Officer, Healing and Government Reform, Aboriginal Affairs NSW
Victoria	Manager, Aboriginal Affairs Policy, Department of Premier and Cabinet
Queensland	Director, Social Policy, Strategic Policy and Legislation, Department of Aboriginal and Torres Strait Islander Partnerships
Western Australia	Director, Aboriginal Engagement, Department of the Premier and Cabinet
South Australia	Director, Aboriginal Affairs and Reconciliation, Department of the Premier and Cabinet
Tasmania	Deputy Secretary, Communities, Sport & Recreation, Communities Tasmania
Australian Capital Territory	Executive Branch Manager, Office of Aboriginal and Torres Strait Islander Affairs
Northern Territory	Director Policy, Strategic Aboriginal Policy, Office of Aboriginal Affairs, Department of the Chief Minister and Cabinet
Australian Local Government Association	Executive Director, Policy and Research

Secretariats:

Coalition of Peaks	Head of Secretariat, Coalition of Peaks
Joint Council / Partnership Working Group	Branch Manager, Closing the Gap Branch, National Indigenous Australians Agency

Evaluation and Recommendations

It is clear that, in entering into the Partnership Agreement in March 2019 and the subsequent National Partnership in July 2020, the Parties signed on to a huge change agenda. Neither the Peaks, in coalition or separately, nor the Government Parties had worked in this type of formal partnership before. It required all Parties to examine and confront entrenched mindsets and ways of working. For the Coalition of Peaks, having a seat at the table with governments and negotiating with ministers and senior government officials was unprecedented. For Governments, the old ways of making decisions for and about Aboriginal and Torres Strait Islander people and communities without their input were gone, swept away by a new approach – sharing power and working collaboratively in genuine partnership, with decision-making being shared.

General Observations

There was unanimous agreement that the National Agreement signed on to by the parties in July 2020 was confirmation that the Partnership Agreement is fulfilling its primary purpose. Further, all respondents agreed that the National Agreement was significantly improved by the involvement of the Coalition of Peaks. They are credited with the prominence given to the Four Priority Reforms and the significant transformation that Governments have committed to in the National Agreement.

As noted by the Coalition of Peaks when the new National Agreement was announced, “the Priority Reforms commit governments to new partnerships with Aboriginal and Torres Strait Islander communities across the

country; strengthen community-controlled organisations to deliver closing the gap services; address structural racism within government agencies and organisations; and improve sharing of information with Aboriginal and Torres Strait Islander organisations to support shared decision making.”

While there has been some negative commentary about the level of ambition of some of the socioeconomic targets, the commitments in the National Agreement by all parties to progress a major change agenda are indeed considerable.

Below are some responses to the survey about whether the Partnership Agreement facilitated a better way of working between governments and Aboriginal and Torres Strait Islander people. More detail can be found in Chapter 5 – What the Partnership Parties Said.

“... different and better than the previous approach ... helping to reinforce what working in partnership ... really means.”
(Commonwealth)

“... the Partnership Agreement revitalised the national ‘closing the gap refresh’ discourse ... it has ensured Aboriginal and Torres Strait Islander peoples’ priorities are central to the new framework...” (VIC)

“... establishes a new and robust way of working between governments and Aboriginal and Torres Strait Islander people.” (WA)

Generally, Government Parties had a more favourable perception of the state of the Partnership than did the Coalition of Peaks. This is likely due to the Coalition of Peaks coming from a more marginalised, minority position where equitably participating in shared decision making is more difficult. All Partnership Parties raised a number of issues during the Health Check which deserve some comment and further consideration.

Points of difference between the views of the Partnership Parties became apparent early in the Health Check as Parties reflected on the negotiations of the National Agreement as the first real practical application of the Partnership.

The Coalition of Peaks expressed a range of concerns with the negotiation process. They included:

1. The power imbalance, although somewhat mitigated by the governance arrangements and principles in the Partnership Agreement, was always there and felt.
2. Governments didn't fully comprehend or acknowledge the emotional burden carried by the Coalition of Peaks, as direct representatives of their communities and membership, when they made compromises to secure an agreement.
3. The embargo on sharing drafts of the National Agreement disadvantaged their members and increased their emotional stress as it made it difficult for the Peaks to conduct open consultations with their member organisations.
4. It was not apparent that barriers to equal participation had been consciously, proactively or adequately addressed by Governments.

5. Governments did not always share the Coalition of Peaks' sense of urgency in progressing the Closing the Gap agenda – for them, the statistics are their own families' lives and daily lived experiences and any sense of a lack of urgency was felt personally.
6. Data was not always accessible and, when it was shared, it was often very late and in such large quantities as to be impossible to digest in the time available in order to make decisions.
7. Whole-of-government understanding of and commitment to the Partnership principles were not yet evident.

The Commonwealth stated that, “in order to work in genuine partnership, parties need to be forward looking, assume positive intent and treat each other with respect”, noting that this is not always evident.

A number of jurisdictions commented on the role of the Drafting Group suggesting that it be formalised and strengthened. Some jurisdictions echoed the concern of the Coalition of Peaks about the need to more time to consider papers and consult affected parties.

Another jurisdiction, commenting on the balancing of interests, specifically the expectation of the Coalition of Peaks against the realities of government requirements, and the pressure this puts on Parties to make decisions with insufficient information, suggested that implementation of the National Agreement would benefit from the principle of all Parties operating in good faith.

Tensions between the Partners will always exist because the Coalition of Peaks, recognising that the needs of the Aboriginal and Torres Strait Islander people are so great, will always demand the best outcome for their people and the community-controlled organisations they represent. Governments will not always be willing or able to meet all of their demands due to different views on feasibility or competing priorities determined by resource availability or political imperatives.

How these fundamental tensions are resolved will always be impacted by the inherent power imbalance between the Parties – see section below.

In this section, the reviewer teases out some of the issues raised in the Health Check and suggests some actions to resolve or, at least, moderate them.

Power imbalance

The Partnership Parties, in acknowledging the inherent power imbalance between the Partners, agreed to a unique set of governance arrangements to facilitate equal participation and shared decision-making. These arrangements are summarised above in Chapter Two.

There is significant disagreement about the effectiveness of the arrangements to address the obvious power imbalance between the Partnership Parties. The Coalition of Peaks did not agree that they were effective, noting that, “... decisions about the level of ambition in the targets, changes to the laws and the amount of resources to be contributed are made by governments ... we felt the limits of what was possible and permissible were set by governments; all we could do was seek to influence the outcomes, and ... in many ways we did”.

Government parties also differed in their views. Some felt the arrangements put in place nationally and within their jurisdictions were effective; others suggested improvements. In this regard, a number of jurisdictions noted that jurisdictional governance arrangements are under development.

Clearly, the power imbalance could not be completely alleviated unless Governments devolved considerable resources and power and authority for decisions to the Coalition of Peaks. This was not intended by the Partnership Agreement, and other arrangements were put in place to ameliorate this imbalance to the extent that it is possible. This included co-chairing arrangements of the Partnership Working Group and the

Joint Council between Government and the Coalition of Peaks and the number of Coalition of Peaks Joint Council representatives.

As noted above, all Parties agreed that the Coalition of Peaks did indeed have a significant influence on what the National Agreement contains. This was no accident as the Coalition of Peaks decided early on that they would be the first to put matters and positions forward to ensure they were heard, and to influence the direction of the negotiations.

This was critical as they didn’t want to respond to the Governments’ proposals from their minority position knowing that this would result only in changes around the margins; to exert real influence, and more genuinely share in decision making, they had to be first to put positions to be debated. This was demanding on the Peaks and their Secretariat and will become much more challenging in the implementation phase as the process moves from a singular focus to work happening on multiple fronts.

The Parties need to put arrangements in place to ensure the Coalition of Peaks can take a strengthened leadership role in the Partnership. This means that the Coalition of Peaks must be not just represented in the partnerships that develop, deliver and monitor the jurisdictional implementation plans but they must take a leadership role in these negotiations to ensure the minority voice is heard.

There needs to be Jurisdictional Agreements that reflect the Partnership Agreement as extended by the National Agreement and consistent with the recommendations outlined in this report.

There is no formal dispute resolution mechanism within the Partnership Agreement for differences to be resolved. Clause 36 states that, “The parties will endeavour in the spirit of co-operation, good faith, and mutual trust to resolve any difficulties or misunderstandings with respect to the Partnership Agreement.”

The Coalition of Peaks lamented the lack of an independent umpire to settle disputes when the Partners were unable to reach a decision by consensus. There is still lingering resentment over the lack of ambition in a number of the socio-economic targets included in the National Agreement. Perhaps an independent dispute settlement process could have tempered this resentment, but the Partnership Agreement does not deal with governments ceding decision-making to a third party.

The National Agreement does have a dispute resolution process (Clauses 140 – 143). It involves multiple steps: a written notice of a dispute; an attempt by the PWG to resolve the dispute; escalation to the Joint Council for attempted resolution; and finally, termination of the aggrieved Party's participation in the National Agreement.

It is difficult to imagine the circumstances in which any party would choose to wholly withdraw from the National Agreement, and throughout the Health Check all Parties communicated their ongoing commitment to the Partnership. If one or two of the Government Parties withdraw from the National Agreement, it could continue with the remaining Parties. However, withdrawal by the Coalition of Peaks would be terminal. As all parties would no doubt prefer negotiation to termination, this provides an effective, albeit extreme, dispute resolution process as the incentive is therefore to compromise to reach agreement.

Even so, it needs to be acknowledged that the Government parties had the upper hand during the negotiation of the National Agreement because the Coalition of Peaks could not in good conscious walk away from the Partnership; it was the only pathway to better life outcomes for Aboriginal and Torres Strait Islander people and communities. This is likely to remain the case for the implementation phase of the National Agreement.

The Coalition of Peaks maintains that it had to compromise more than Governments in order to reach agreement on the targets in the National Agreement.

“Governments have the final decision-making authority on the inputs needed to make real changes. While they moved some of the way during the negotiations, we believe we have to make the greater compromises.” (Coalition of Peaks)

The fact that the members of the Coalition of Peaks belong to the families and communities directly impacted by the measures in the National Agreement and the consequent pain they felt at the need to compromise their ambitions in order to reach agreement should be acknowledged by Governments when this Health Check report is being considered by the PWG and Joint Council.

Joint Council and PWG meetings

An important aspect of equal participation and shared decision making is ensuring that processes are in place and clear to all Parties to enable each to organise their own resources and prepare for decisions that are to be taken.

Some jurisdictions were concerned that dates of meetings were set without any consideration of the availability of their key people; whether they had prior commitments which made their attendance at meetings problematic or even impossible. Others, including the Coalition of Peaks, were concerned that they did not always have input into the forward agenda setting, and the subsequent meeting dates to support an agreed forward work plan.

The Parties noted some improvements to these arrangements. Meeting dates have been scheduled in advance by NIAA so that all Parties can better plan and prepare for

their participation. A welcome development has been the decision to schedule three Joint Council meetings in 2021 in recognition of the need for decisions around the National Agreement actions / timelines. Also, PWG meetings dates for the remainder of 2020 have been set. In keeping with this good practice, the schedule of PWG meetings for 2021 should be agreed before the end of 2020.

Agendas for the Joint Council and PWG meetings should be agreed between the Co-chairs, noting that this could be assisted by a strategic forecasting approach to the meeting agendas, i.e. what matters have to be considered at what meetings in accordance with Partnership and National Agreement timelines and what issues are likely to come forward and at what times. For example, consideration of the Health Check report be scheduled for the first Joint Council meeting each year, and a PWG meeting be held prior to this with the dedicated purpose to consider the analysis and recommendations in the report (see recommendations below).

This should not, however, operate as a break on other matters being considered by the PWG in particular. Parties should not be blocked from putting forward relevant issues for discussion at PWG meetings even if there is likely to be opposition to their proposals by some or all of the other Parties. In this way, they will be able to better understand and respond to the others' perspectives.

It would be beneficial if there was a written protocol by which all parties clearly understand the process for setting agendas.

Partnership Governance

Ensuring there is clarity in the way decisions are to be taken assists to address power imbalances between the Parties.

The Partnership Agreement defines the Partnership Parties and states that the formal partnership is between the Coalition of Peaks and all Australian Governments and the ALGA, represented by First Ministers and the President of ALGA. However, there is no forum

in the Partnership Agreement for the Parties to come together to take shared decisions.

While the initial work of the partnership was the negotiation of the National Agreement and these negotiations occurred within the structures established under the Partnership Agreement – the Joint Council and the PWG – there was no clear process for signing off the National Agreement between the Partnership Parties. Confusion arose about its final endorsement and subsequent announcement. Given the Coalition of Peaks was (and remains) a Partner to the agreement, the principles of equal participation and shared decision-making warranted their being involved in both the final agreement sign-off and decisions about the timing of the announcement.

In the period between the National Agreement leaving the Joint Council and the announcement, there was confusion about the process for finalisation and announcement. The Coalition of Peaks knew there was significant community and media interest in the agreed arrangements and that they would have to be prepared to address any negative comments. Their anxiety was magnified when a draft of the National Agreement was leaked to the media and the resultant community disquiet which the Coalition of Peaks was not able to comment on publicly or defend themselves against until the formal announcement. Government Parties were also affected by the leak, the source of which has not been identified.

The Coalition of Peaks, therefore, expressed disappointment that they were left in limbo after the National Agreement was referred from the Joint Council to First Ministers and the President of the AGLA. At that stage, there were still some unresolved issues that they expected would be finalised at National Cabinet level with the Coalition of Peaks Lead Convener having an opportunity to speak to the matters requiring resolution. This did not happen.

As the Partnership Agreement needs to be updated to reflect the changes to COAG, it

would be a good opportunity to revise it to provide a forum for the Partnership Parties.

This lack of a clear process for finalising the National Agreement provides some lessons for the next phase of the work. Clear processes will be needed to deal with any amendments to the Partnership Agreement and those matters in the National Agreement that require the Parties' agreement, beyond Joint Council, such as the changes to the National Agreement envisaged by Clause 41 requiring the Parties to meet in 2025 and consider progress on Priority Reform One and make additional partnership actions if needed. The Agreement will be updated accordingly.

Clear processes will also be needed for developing and finalising Jurisdictional Implementation Plans. The involvement of the Coalition of Peaks in their development and delivery extends to their being involved in the signing off processes and announcements. These arrangements must be clearly articulated, understood and agreed by all Parties.

Scope of Partnership and National Agreements

To work in full partnership and reduce tension, there must be consensus between Parties on the scope of that partnership, what it encompasses and what it does not.

There appears to be significant disagreement about the scope of the arrangements in the National Agreement. The Coalition of Peaks argues that all partnerships between Governments and Aboriginal and Torres Strait Islander communities and organisations are captured by the National Agreement, as are the majority of policies and programs that have a significant impact on the lives of Aboriginal and Torres Strait Islander people. The Commonwealth and some other governments do not agree.

The Coalition of Peaks is concerned that governments will restrict the partnership arrangements agreed under the National

Agreement only to those areas of policy that they deem to be Closing the Gap. Moreover, the Coalition of Peaks maintain that they apply to all partnerships between governments and Aboriginal and Torres Strait Islander communities and organisations and to the development and implementation of policies and programs that have a significant on Aboriginal and Torres Strait Islander people; they are not ringfenced. The Coalition of Peaks is also concerned that governments reserve to themselves the decisions about what is captured under the Closing the Gap umbrella.

“... the partnership principles elaborated in the Partnership Agreement should be the blueprint for government engagement, investment and policy development across all areas of policy. The National Agreement extends the partnership principles to all engagement between government and Aboriginal and Torres Strait Islander communities and organisations through the Priority Reforms ... These commitments are boundless are not to be applied only to certain circumstances determined by governments.” (Coalition of Peaks)

Governments, on the other hand, seek to distinguish between closing the gap policies covered by the National Agreement and other areas of policy.

“The parties recognise the importance of the National Agreement and agree it will be the overarching policy framework in the context of Closing the Gap (reviewer's emphasis) ... The Commonwealth is also working towards a range of economic development and other policy objectives that are beyond the scope of the National Agreement.” (Commonwealth)

This divergence of interpretation should be resolved by agreement between the Partners.

Another related area of disagreement / misunderstanding goes to the role of the Coalition of Peaks in the implementation phase. Governments expressed their concern that the Coalition of Peaks see themselves as the sole voice for Aboriginal and Torres Strait Islander people in this phase.

“While the Queensland Government has committed to the Agreement there is a recognition that the Coalition of Peaks are not the only Aboriginal and Torres Strait Islander voices that influence how government develops policy and service delivery.” (QLD)

The Coalition of Peaks acknowledges that, whilst it has a defined role in the partnerships and decision-making under the National Agreement, it does not have an exclusive role; governments will enter into partnerships with a range of Aboriginal and Torres Strait Islander communities and organisations, and under Priority Reform One, the principles in the Partnership Agreement were extended to all of these partnerships. The Coalition of Peaks were deliberate in the design of the Priority Reforms in that they were intended to change the way governments engage with, and for the benefit of, all Aboriginal and Torres Strait Islander organisations and communities.

Confidentiality during negotiations

Peaks by their very nature generally represent a number of community-controlled organisations. They felt, understandably, a profound obligation to consult, openly and in full, with their member organisations during negotiations but believed they were constrained by the need for confidentiality during negotiations. Governments did not feel such constraints. While the need for confidentiality can sometimes be justified so that positions can be negotiated without constraint, going forward the Parties could

consider adopting processes which allow more open and transparent consultations to occur before final decisions are made.

The Commonwealth has suggested a ‘no surprises’ media protocol be agreed requiring all Parties to the Partnership Agreement to notify each other “if they intend to make significant comment in the media about matters relating to the Partnership or implementation of the National Agreement.”

Change Management

In accordance with the Partnership Agreement and extended by the four Priority Reforms in the National Agreement, governments have committed to transform the way they engage with Aboriginal and Torres Strait Islander people.

This is clearly articulated under Priority Reform Three, where governments committed to implementing six transformational elements within their institutions and agencies: Identify and eliminate racism; Embed and practice meaningful cultural safety; Deliver services in partnership with Aboriginal and Torres Strait Islander organisations, communities and people; Increase accountability through transparent funding allocations; Support Aboriginal and Torres Strait Islander cultures; and Improve engagement with Aboriginal and Torres Strait Islander people.

It is noted that by 2023, governments will identify, develop or strengthen an independent mechanism/s that will support, monitor and report on the transformation of mainstream agencies and institutions. These changes are far-reaching and require actions to cement them in place.

In their Jurisdictional Action Plans, Government Parties are required to show how they are going to meet their commitments under all Priority Reforms.

These arrangements must be robust enough to ensure systemic change. A thorough change management approach will be needed

in every jurisdiction. For instance, the vision for change must be communicated in a clear and focused way across all institutions of government at all levels and to all stakeholders likely to be affected.

Ongoing Funding for Peaks

The Partnership Agreement acknowledges that the Coalition of Peaks need to be provided with adequate and ongoing financial support to enable them to engage and negotiate as equal partners, and that this funding is separate to their current funding as individual Peaks.

A key issue for the Coalition of Peaks' members is the need for them, individually and collectively, to have guaranteed funding for the duration of the Partnership and National Agreements to support their involvement going forward.

In accordance with the Partnership Agreement, the Coalition of Peaks has been funded for three years by the Commonwealth and will soon be negotiating the second triennial funding agreement. These funds provided for the Secretariat and policy and project work that supported the Coalitions of Peaks during the negotiations. Additional funding may need to be considered moving forward to enable the Peaks to continue their full participation in the implementation phase of the National Agreement.

While considerable implementation effort will occur at the jurisdictional level, the Coalition of Peaks will also continue to have an oversight role, including of the National Agreement as a whole. Under the National Agreement, the Coalition of Peaks are a party to all Jurisdictional Implementation Plans, including the Commonwealth's Implementation Plan. Other Aboriginal and Torres Strait Islander organisations are also expected to be involved as formal partners. In some jurisdictions, the Coalition of Peaks will have to play a greater role because the presence and capacity of Peak bodies are

limited or evolving. The Coalition of Peaks will also partner with Government parties in the joint policy actions, Data Development Plan and the Joint Communication Strategy. Similarly, the National Agreement requires the Partners to make a range of decisions, including changes to the National Agreement.

The Coalition of Peaks is auspiced by NACCHO, operates from their offices and the NACCHO CEO its Lead Convener. Even so, the Coalition of Peaks is a separate, independent organisation with its own identity as evidenced by its own webpage. However, to give greater visibility to its stature as an independent organisation, the Coalition of Peaks may wish to consider incorporating as a separate legal entity and seek funding for its own operations.

Existing state / territory coalitions of Peaks (NSW CAPO, VIC AEC, SAACCON, APO NT) and the Elected Body in the ACT receive funding from their jurisdictions. This funding support should be reviewed to ensure they have the resources they need to:

1. support their community-controlled organisations as they enter into partnerships with governments in implementing the National Agreement; and
2. continuing their support for and input into the work of the Coalition of Peaks.

In those jurisdictions where there are no state Peaks' coalitions, i.e. QLD and WA, the Peaks and other significant Aboriginal and Torres Strait Islander organisations with an interest in Closing the Gap should be encouraged to form coalitions and be provided with funding as per the arrangements outlined above.

National Peaks also have a role in supporting the development of implementation plans, especially around workforce issues, e.g. AIDA and CATSINAM.

Alignment between the Partnership Agreement and the National Agreement

The Coalition of Peaks and a number of jurisdictions raised the need for a review of the Partnership Agreement to ensure it aligns with the principles in the National Agreement.

“The National Agreement commits parties to operating in particular ways together and sets out best practice arrangements for partnerships under priority reform one. Similarly, there are independent reviews. While the Partnership Agreement is referenced in the National Agreement, it is potentially useful for the two documents to be reviewed to ensure they talk to each other, and where required, the Partnership Agreement updated”. (VIC)

This review could be undertaken when the Partnership Agreement is updated as noted above.

Risk Register

The purpose of the Risk Register is to identify potential risks and take pre-emptive action to resolve them before they become serious; to iron out the wrinkles in the relationships between the Parties. It would have been better if the Risk Register had been completed at the beginning of the Partnership as some of the matters raised during the Health Check potentially could have been mitigated, but it can benefit by being informed by the lessons learned over the last year.

Lessons learned from the National Agreement negotiations can also inform arrangements going forward into the implementation phase at both the national and jurisdiction levels.

Agreements similar to the Partnership Agreement will be entered into between the Coalition of Peaks, other Aboriginal and Torres Strait Islander parties and Jurisdictions around the development and delivery of their Implementation Plans. The Parties should consider adopting risk management approaches for these Partnerships and for their shared commitments under the National Agreement as well.

Conclusions

As stated above, the Parties are in agreement that the Partnership has fulfilled its initial purpose in agreeing a refreshed Closing the Gap framework, which the Parties agreed would be done through negotiating a new National Agreement. It should come as no surprise that some issues have been identified given the new and evolving nature of the Partnership and the stress placed on relationships during the negotiations for the National Agreement.

What matters now is how the Parties decide to work through these issues, come to a shared understanding of the key concepts and principles underpinning the Partnership and develop clear, agreed protocols and procedures so that the arrangements can be improved and sustained going forward. Written protocols, processes and procedures can appear time consuming, overly bureaucratic and too much extra work when there is so much to do, but the investment at this point can contribute to building better and more harmonious working relationships. It is always preferable that all Parties have shared understandings and expectations.

Recommendations

The reviewer proposes that these recommendations be considered in two stages so that the Parties can consider recommendations 1 to 3 (Stage One) at the Joint Council meeting in November 2020 and the remainder of the recommendations (Stage Two) at the first Joint Council meeting in 2021.

Stage One – Initial consideration

Institutionalising consideration of the Partnership Agreement Health Check and Risk Register.

1. That sufficient time is set aside at the first Joint Council meeting each year to reflect upon and consider the findings and recommendations of the Partnership Agreement Health Check report and review the Risk Register, beginning with the first meeting in 2021.

Building a shared understanding of how the partners will work together going forward.

2. That a meeting of the Partnership Working Group is convened at the earliest opportunity for a frank and open conversation about the issues raised in this Health Check and how the divergent views of the Parties may be accommodated.

Publishing the Health Check report and Parties responses to the recommendations to help inform the deliberations of other partnerships forming under the National Agreement.

3. That this Health Check report and the Parties' response to the Stage One recommendations be made public following the Joint Council meeting in November 2020.

Stage Two – Actions required to strengthen the Partnership

Agreeing the Risk Register.

4. That the draft Risk Register at Appendix A is considered, and an agreed Risk Register is made public.

Developing a written protocol outlining expectations to support greater shared decision making.

5. That a protocol be agreed confirming that:

- a. The Parties will seek to work together in partnership, build a shared understanding of each other's perspectives, noting that there is always room for robust but respectful discussion;
- b. The Parties acknowledge that the Coalition of Peaks, as representatives of the community-controlled organisations accountable to their communities, feel the weight of their needs and expectations;
- c. The Parties agree that the principles elaborated in the National Agreement extend to all partnerships between governments and Aboriginal and Torres Strait Islander organisations and communities;
- d. All partnerships under the National Agreement are defined in writing clearly stating the who, how and what – who the partners are, how they will work together and what they agree to do together;
- e. Arrangements are in place for the Coalition of Peaks to take a leadership role in the Partnership going forward;
- f. Confidentiality arrangements when partnerships and implementation plans are being negotiated; and
- g. The Parties agree to notify each other when any Party chooses to make a comment to the media about matters relating to the Partnership Agreement or implementation of National Agreement – not to silence anyone but to prepare for any positive or negative publicity.

Embedding cultural change.

6. That the Government Parties agree that each jurisdiction will implement a change management process consistent with the

National Agreement to embed within their institutions of government the cultural change required so the new arrangements become the norm and are not reliant on key individuals.

Formalising the Drafting Group function of sifting through the draft papers for the Partnership Working Group, canvassing the issues and attempting to iron out any areas of dispute before they are presented for consideration.

7. That the role of the Drafting Group be confirmed and formalised. Consideration should be given to the Drafting Group being co-chaired by a representative from one of the Government Parties and the Head of the Coalition of Peaks Secretariat.

Managing the work of Joint Council and the Partnership Working Group to promote greater transparency and full and equal participation.

8. That a Shared Forward Work Plan be agreed to enhance strategic planning, transparency, equal participation and shared decision making.
9. That the Shared Forward Work Plan be updated at each meeting to ensure its currency.
10. That, in conjunction with the Forward Work Plan, a written process be agreed between the Parties which supports:
 - a. Joint Council and Partnership Working Group (PWG) meeting dates being agreed at the beginning of each year so that all Parties can arrange their comprehensive and wholehearted participation;
 - b. Both Co-chairs agreeing meeting agendas and signing-off on any changes to dates, locations and / or agendas of meetings;
 - c. All Parties having authority to put forward proposals / papers for consideration by the PWG and submit them within the agreed timeframe for consideration;

- d. The timeframes being sufficient to allow all Parties time to consult and prepare their positions, i.e. circulated to Drafting Group at least two days in advance and to the PWG at least seven days in advance of each meeting, with the Co-chairs together having authority to agree to exceptions;
- e. Papers to PWG being agreed by the Drafting Group except for urgent and unforeseen papers which should then be signed off by the Co-chairs; and
- f. Papers for Joint Council being agreed by the PWG.

11. Similar processes should be adopted by all jurisdictions in respect of the Jurisdictional Implementation Plans and other joint work under the National Agreement.

Resourcing of the Peaks and community-controlled sector.

12. The Coalition of Peaks should consider incorporating as a separate legal entity.
13. Funding should be guaranteed for the remaining period of the Partnership Agreement subject to a funding agreement negotiated between the Commonwealth and the Coalition of Peaks and on the condition that the Coalition of Peaks maintains a strong membership base and continues to function effectively.
14. Additional funding for the Coalition of Peaks should be considered in recognition of the change from a single focus to multiple actions across nine jurisdictions.
15. Consideration should be given to providing Peak bodies with additional resources so they can effectively support their community-controlled membership to fully participate in the arrangements.
16. Consideration should be given to properly resourcing State and Territory Peak bodies to undertake their responsibilities and support their members.

Reviewing the Partnership Agreement and future annual Health Checks.

17. That the Parties agree that the Partnership Agreement be reviewed to ensure its alignment with the National Agreement.
18. That the Parties consider the design and approach and the Success Indicators and survey questionnaires used for this Health Check as the benchmarks for all subsequent annual Partnership Agreement Health Checks so that progress can be monitored in a consistent way against a baseline.

Sharing good practice.

19. That examples of good practice which have been endorsed by Aboriginal and Torres Strait Islander partners in the jurisdictions be shared by way of a Good Practice Portal or similar accessible to all Parties. This can be especially useful for governments building their own capacity to partner with Aboriginal and Torres Strait Islander people.

Publishing responses to Stage Two recommendations.

20. Responses to the Stage Two recommendations be made public after the first Joint Council Meeting in 2021 once the Partnership Working Group and Joint Council have had time to properly consider them.

What the Partnership Parties Said

Partnership Context

Q. 1. The Partnership Agreement is fulfilling its purpose of facilitating a better way of working between governments and Aboriginal and Torres Strait Islander people.

All respondents agreed that the Partnership Agreement is fulfilling its purpose.

Q. 2. Please give reasons for your choice.

Most respondents cited the recently agreed National Agreement on Closing the Gap as evidence of the success of the Partnership Agreement.

It was agreed that the involvement of the Coalition of Peaks resulted in a much better National Agreement than would have been the case without it.

“[it] is much improved over the first version arising from the re-fresh process in 2018. (Coalition of Peaks)

“... different and better than the previous approach ... helping to reinforce what working in partnership ... really means.” (Commonwealth)

“... the Partnership Agreement revitalised the national ‘closing the gap refresh’ discourse ... it has ensured Aboriginal and Torres Strait Islander peoples’ priorities are central to the new framework...” (VIC)

“... establishes a new and robust way of working between governments and Aboriginal and Torres Strait Islander people.” (WA)

Some jurisdictions referenced existing partnerships with Peaks and other mechanisms at the state/territory level (NSW, ACT & NT).

Some reservations were expressed, however, by a number of respondents, most notably the Coalition of Peaks who articulated a number of concerns:

1. Whilst the confidentiality of the negotiations was crucial to allow open and free flowing debate, it did cause difficulties for some Peaks who wanted to consult more openly with their full membership during the negotiations;
2. Coordinated whole-of-government approaches were not always evident as governments would delay finalising targets because they had to engage their policy departments/agencies;
3. Governments control the narrative because what gets discussed is limited by their majority position – it is harder for the Coalition of Peaks to put forward issues for consideration and have them fully discussed; and
4. Insecurity of Peaks’ funding inhibited their involvement in negotiations.

Partnership Governance

Q. 3. Working arrangements to address the power imbalance in the relationship between governments and Aboriginal and Torres Strait Islander people are in place and effective.

There was a divergence of views: five Government Parties agreed, five neither agreed nor disagreed and the Coalition of Peaks did not agree that arrangements are in place to address the power imbalance.

Q. 4. What working arrangements are in place to address the power imbalance?

Partnership Partners agreed that the following arrangements were put in place to address the power imbalance:

1. The Coalition of Peaks Lead Convener is Co-chair of both the Joint Council (with the Commonwealth Minister) and the Partnership Working Group (with the NIAA Deputy Chief Executive Officer);
2. The Coalition of Peaks have 12 representatives on the Joint Council;
3. Representation by members of the Coalition of Peaks attending PWG meetings is unlimited; and
4. The resourcing of the Coalition of Peaks Secretariat in addition to, and separate from, the Secretariat to the Joint Council and PWG, noting the Coalition of Peaks is supported by a very capable Secretariat.

A number of jurisdictions also included the Drafting Group in these arrangements noting that the agenda and papers to go to the PWG go through this group, on which the Coalition of Peaks is represented.

Despite the arrangements in place to address the power imbalance, the Coalition of Peaks stated that this imbalance continued and continues because ultimately governments determine the decisions and hold the power about resourcing and changes to laws that impact on the lives of Aboriginal and Torres Strait Islander people.

“Although we were involved in the negotiation of the National Agreement, we felt the limits of what was possible and permissible were set by governments...” (Coalition of Peaks)

The Coalition of Peaks also expressed concern about the lack of an independent umpire who

can resolve disputes. They felt that consensus decision-making can sometimes mean that the lowest common denominator position being agreed.

“... there is no shared or common understanding that this [governance arrangements to address the power imbalance] is the case, or that this is intentional, making many of the arrangements ineffective.” (VIC)

Q. 5. How can they be strengthened?

The Coalition of Peaks made the following suggestions to strengthen the arrangements:

1. They must be allocated ongoing funding to meet their responsibilities under the Partnership Agreement and National Agreement;
2. state/territory coalitions of peaks, e.g. NSW CAPO, VIC AEC, SAACCON, APO NT and any newly formed coalitions of peaks must be properly resourced to undertake their responsibilities under the National Agreement, i.e. joint decision-making with jurisdictions to develop priority reform and jurisdictional implementation plans;
3. national Peaks with no state/territory footprint must be engaged in the development of the jurisdictional implementation plans;
4. when Peaks or coalitions of Peaks are being considered for defunding by governments, there needs to be recognition that this will have a detrimental impact on joint decision-making and planning. Governments should look to building the capacity of Peaks; defunding should be a last resort;
5. a schedule of meetings of both the Joint Council and PWG should be agreed to at the beginning of each year so all partnership parties can plan ahead; and
6. agendas for these meetings should be agreed and sufficient time allowed for agenda items to be considered by all parties and consultations to occur.

VIC suggested that the role of the Drafting Group be codified in an accord or terms of reference (or similar) as the body through which the views of all the parties are canvassed and moderated, and papers developed for consideration by the PWG.

The Commonwealth suggested all parties focus on a forward looking, genuine partnership approach.

Q. 6. *The structures established under the Partnership Agreement are working to give effect to the principles of equal participation, shared decision-making and Aboriginal and Torres Strait Islander self-determination.*

All Government Parties agreed that structures established under the Partnership Agreement are working to give effect to these principles. The Coalition of Peaks neither agreed nor disagreed.

Q. 7. *How are governments giving effect to the principles of equal participation, shared decision-making and Aboriginal and Torres Strait Islander self-determination?*

The Coalition of Peaks expressed their concern that the realisation of these principles is impeded by power imbalance between the Partners.

“Governments have the final decision-making authority on the inputs needed to make real changes. While they moved some of the way during the negotiations, we believe we had to make the greater compromises.” (Coalition of Peaks)

Jurisdictions provided examples of the arrangements in their state/territories to give effect to these principles. Some examples include:

1. The Commonwealth referred to the structures established under the Partnership Agreement: Joint Council; PWG; and Drafting Group, noted its contribution of \$46.5 million for Priority Reform Two

and advised its intention to continue to work with a wide range of Aboriginal and Torres Strait Islander organisations, including through the Coalition of Peaks and other mechanisms such as Empowered Communities.

2. NSW referred to a proposed body to oversee development of jurisdictional implementation plan – a balance of government and Aboriginal organisational membership – and instanced its Local Decision Making initiative.

3. VIC referred to the Vic Aboriginal Executive Council (AEC) and the four self-determination enablers of its Aboriginal Affairs Framework 2018-2023: prioritise culture; address trauma and support healing; address racism and promote cultural safety; and transfer power and resources to community.

4. QLD referred to the Statement of Commitment, Path to Treaty and Local Thriving Communities as well as a range of initiatives that embed equal participation, shared decision-making and self-determination.

5. WA noted the Aboriginal Health Council of WA contributes through the Advisory Council to the WA Government’s participation in the PWG. The Aboriginal Empowerment Strategy is being developed and the government is looking to enable Aboriginal-led solutions through better service commissioning to increase the involvement of Aboriginal Community Controlled Organisations in service delivery.

6. SA noted its funding support for the South Australian Aboriginal Community Controlled Organisations Network (SAACCON).

7. TAS noted that it intends to convene Closing the Gap forums across the state and to work in partnership with Aboriginal organisations.

8. ACT referred to the Aboriginal and Torres Strait Islander Elected Body and the ACT Aboriginal and Torres Strait Islander Agreement 2018-2028.

9. NT referred to Treaty discussions, Everyone Together Aboriginal Affairs Strategy, Local Decision Making and its Leadership, Governance and Capacity Building initiatives.

Q. 8. *The Government Parties – collectively and individually – are listening to and taking account of the views of the Coalition of Peaks.*

All Government Parties agreed that they are listening to and taking account of the views of the Coalition of Peaks. The Coalition of Peaks neither agreed nor disagreed.

Q. 9. *How is this demonstrated?*

The Coalition of Peaks believed that their views were generally listened to but the level of ambition in some of the targets in the National Agreement was not as great as they would have liked, suggesting that their views were not always heard.

“... governments rejected our expert advice that is was absolutely critical to increase the ambition of the justice targets to meaningfully reduce our over-imprisonment ...” (Coalition of Peaks)

They also expressed concerns about time constraints on the negotiations of the National Agreement and how they impacted their ability to work through some issues.

Government Parties referred to the arrangements under the Partnership Agreement, the Joint Council and PWG, and how they provided a platform for the Coalition of Peaks’ views to be presented and listened to. The Commonwealth noted its support for the preeminence of the four Priority Reforms in the National Agreement as evidence of the Government Parties hearing the views of the Coalition of Peaks.

A number of states referred to arrangements within their jurisdictions as evidence of their commitment to listening to and talking account of the views of their Peak bodies.

Partnership Principles

Q. 10. *The Parties have accepted the principle that the National Agreement is the overarching policy that will inform all Parties’ actions for the next 10 years.*

Seven of the Government Parties agreed that they have accepted the principle that the National Agreement is the overarching policy that will inform all Parties’ actions for the next 10 years. One agreed somewhat and two others neither agreed nor disagreed.

The Coalition of Peaks neither agreed nor disagreed.

Q. 11. *If you think improvement is needed, what needs to be done?*

Those governments who agreed, referred to other areas of policy within their jurisdictions but suggested they could align with the National Agreement policy as the overarching strategic framework.

“.. there is adequate flexibility for all parties to implement in a way that brings together, complements and is cognisant of other relevant strategies and reforms.” (VIC)

QLD said the Coalition of Peaks is not the only Indigenous voice influencing government policy and service delivery, noted its Path to Treaty and Local Thriving Communities reforms, and suggested the Coalition of Peaks engage with these reforms also in Queensland and more broadly.

The Commonwealth suggested it will be the overarching policy framework in the Closing the Gap context, noting,

“.. the Commonwealth is also working towards a range of economic development and other policy objectives that are beyond the scope of the National Agreement.” (Commonwealth)

The Coalition of Peaks stated that partnership principles must be understood across all government agencies and should be the

blueprint for government engagement, investment and policy development across all areas of policy.

“The National Agreement extends the partnership principles to all engagement between governments and Aboriginal and Torres Strait Islander communities and organisations through the Priority Reforms; and to ... any policy development and implementation that has a significant impact on Aboriginal and Torres Strait Islander people.” (Coalition of Peaks)

The Coalition of Peaks reiterated these commitments cannot be restricted to only those circumstances determined by government.

Q. 12. The Coalition of Peaks is accountable to its member organisations which are directly accountable to their communities and represents an appropriate and legitimate network for engaging with Aboriginal and Torres Strait Islander peoples.

The Coalition of Peaks and seven Government Parties agreed. Another agreed in principle. Two Government Parties neither agreed nor disagreed.

Q. 13. Reasons for your answer, including suggestions for improvement.

Those parties that agreed suggested the Coalition of Peaks and the individual Peaks had demonstrated their accountability and transparency.

“The Coalition of Peaks are transparent through regular communications with their members and there are clear processes in place for community organisations to become members” (ACT)

NSW suggested the NSW CAPO could benefit from closer liaison with other governance and representative structures such as the regional alliances under its Local Decision Making initiative.

The Commonwealth agreed that the Coalition of Peaks represents and is accountable to the membership of the Aboriginal and Torres Strait Islander community-controlled organisations, noting that the Partnership Agreement commits all governments to working with the Coalition of Peaks to develop and monitor the National Agreement.

“However, the Coalition of Peaks does not represent all Indigenous Australians and the Commonwealth will continue to engage with a wide range of Indigenous communities, organisations and people.” (Commonwealth)

The ALGA stated that, although they are an effective network, it is difficult to say if the Coalition of Peaks is truly accountable to its members and communities of interest, asking whether “... all Aboriginal controlled organisational peaks entitled to be members of the Coalition?”

Q. 14. What more can be done?

The Coalition of Peaks reiterated that “... governments must provide resources to Coalitions of Peaks at all levels so we can effectively represent our peoples in the development, implementation and monitoring of implementation plans...”

Most governments suggested strengthening existing partnerships and building new ones in accordance with the principles outlined in the National Agreement.

Q. 15. Existing and emerging approaches to shared decision-making and Aboriginal and Torres Strait Islander self-determination and local priority-setting and service delivery are being provided for and encouraged.

Eight Government Parties agreed. The Coalition of Peaks and two Government Parties neither agreed nor disagreed.

Q. 16. How are governments demonstrating their commitment to encouraging and supporting existing and emerging approaches to shared decision-making and Aboriginal and Torres Strait Islander self-determination, particularly at the regional levels?

Governments referred to arrangements already in place in their jurisdictions (see responses to Q.7). The Commonwealth noted the co-design process for a national and regional / local voice that it is undertaking as well as its Regional Investment Strategies and the Empowered Communities program. It also instanced the formal partnership with SNAICC – National Voice for our Children to develop the National Aboriginal and Torres Strait Islander Early Childhood Strategy.

Both the Coalition of Peaks and ALGA said it's too early to tell; this will become clearer with the development, implementation and monitoring of implementation plans.

VIC noted the National Agreement as a component of the broader self-determination reforms to improve outcomes for Aboriginal Victorians.

Q. 17. The Partnership Parties are demonstrating their commitment to open and transparent negotiations and shared decision making.

Seven Government Parties agreed with the statement. The Coalition of Peaks and three Government parties neither agreed nor disagreed.

Q. 18. Reasons for your answer, including suggestions for improvement.

Most governments stated that, during the process of negotiating the National Agreement, their commitment to openness and transparency and shared decision-making was clearly evident. The Commonwealth noted that the Parties continue to work towards a

more trusting, genuine partnership stressing the need to be forward looking and assume positive intent.

“Regular meetings between the Commonwealth, Coalition of Peaks and jurisdictional representatives are helping to build personal rapport and a shared understanding of different perspectives but there is a way to go.” (Commonwealth)

The Coalition of Peaks felt that a lack of transparency was apparent and instanced some of the announcements of the contributions for Priority Reform Two without any prior discussion with the Peaks as “a retreat to old habits”.

WA noted transparency could be increased and the quality of decisions improved by allowing more time for consideration of position papers.

“... the expectations of the Coalition of Peaks balanced against the realities of government machinery requirements across jurisdictions put Parties under considerable pressure at times to rush decisions with inadequate information.” (WA)

The ALGA suggested that the scripted nature of the Coalition of Peaks' participation in the PWG and Joint Council can stifle open and transparent negotiation and decision making. The ALGA also noted that government representatives at PWG meetings are sometimes constrained because their governments may not have determined their positions.

Q. 19. Decisions under the Partnership Agreement are made by consensus.

Eight Government Parties agreed that decisions are made by consensus. One agreed somewhat, one neither agreed nor disagreed and the Coalition of Peaks disagreed.

Q. 20. *Reasons for your answer and suggestions for improvement.*

Coalition of Peaks noted that difficult decisions had to be made in order to reach agreement and expressed concern that "... governments have too much of the upper hand in negotiations."

"Consensus can sometimes mean agreeing to the lowest common denominator in order to achieve the highest level of agreement."
(Coalition of Peaks)

The Coalition of Peaks did note, however, that there is now a National Agreement in place, so they were able to reach agreement.

QLD stated that the need for governments to make decisions through their own processes is not always recognised.

NSW said that on occasions decisions were made by majority in order to break deadlocks and allow negotiations to continue; suggested consensus decision-making be the ideal rather than mandated.

Q. 21. *Arrangements are in place or proposed to develop and strengthen the agency of Aboriginal and Torres Strait Islander people in the development and implementation of policies and programs that impact their lives.*

Nine Government Parties agreed that such arrangements are in place or proposed.

The Coalition of Peaks and one Government Party neither agreed nor disagreed.

Q. 22. *What are these arrangements? How can they be improved?*

Most governments reiterated the arrangements they have in place (see Qs.7 & 16 above) and initiatives planned.

SA listed the many initiatives that are in the early stages of development or have yet to be implemented (Aboriginal Affairs Action Plan (2021-22); Youth Justice State Plan (2020-2023); Young People Connected, Communities

Protected; placed based service delivery; Commissioner for Aboriginal Engagement and a possible elected body.

The Coalition of Peaks said it's too early to tell, noting, "this aspect is underdeveloped and should become more apparent in the next phase."

Q. 23. *The barriers to equal participation (systemic and structural racism, discrimination and unconscious bias) are being identified and addressed.*

Seven Government Parties (agreed that barriers to equal participation are being addressed.

Two Government Parties neither agreed nor disagreed. Another's view was not clear. The Coalition of Peaks disagreed.

Q. 24. *How are they being addressed?*

Governments provided examples of actions within their jurisdictions to identify and address barriers to equal participation:

1. The Commonwealth instanced its work with the Coalition of Peaks, Empowered Communities and the Voice co-design process;
2. NSW referred to the development of Cultural Capability and Trauma Informed Practice training to be rolled out in the NSW public sector;
3. VIC referred to its Aboriginal Affairs Framework 2018-2023 but noted there is room for improvement by all governments in addressing the barriers to equal participation;
4. QLD referenced its Human Rights Act 2019 and the Queensland Human Rights Commission, noting that the Act acknowledges the cultural rights of Aboriginal and Torres Strait Islander peoples;
5. WA noted that barriers will be identified and addressed through the development of the WA Implementation Plan;

6. SA noted the report by the Health Performance Council 'Institutional Racism – Audit of South Australia's Local Health Network' and the Aboriginal Affairs Action Plan 2019-2020;
7. TAS advised that the Health Department is working with the Aboriginal community to develop a Cultural Capability Framework and noted the Aboriginal Employment Strategy underpinned by a Cultural Respect framework;
8. ACT referenced the Aboriginal and Torres Strait Islander Agreement 2019-2028 and the ACT Human Rights Act recognising the distinct cultural rights of Aboriginal and Torres Strait Islander people; and
9. NT said barriers are known and efforts are being made to address and reduce them.

Noting that it does not have authority to mandate actions by Local Government Authorities (LGAs), the ALGA advised that some LGAs have some excellent initiatives in place.

The Coalition of Peaks stated that barriers are not being identified and addressed by governments but noted that they have committed to take action.

Q. 25. Are these arrangements working well?

Governments restated their commitment to identifying and addressing barriers to equal participation and noted this will be a feature of the Reform Priority Three – Transforming government organisations.

Coalition of Peaks said governments need to engage with them and be willing to have honest, frank and critical conversations with their Aboriginal and Torres Strait Islander partners about systemic barriers and how they may be addressed.

Q. 26. Decisions made under the Partnership Agreement are based on evidence (empirical and lived experience).

Six Government Parties agreed. Four others and the Coalition of Peaks neither agreed nor disagreed.

Q. 27. Reasons for your answer and suggested improvements.

The Coalition of Peaks was not convinced that the best available data was shared with them during the negotiations. They believe the justice targets were set more on political reasoning than empirical evidence.

"The Voice of our people has been listened to in reaching agreement. However, crucial information was provided too late and in such large volume that we had great difficulty coming to grips with it in such a short time."
(Coalition of Peaks)

The ALGA suggested there were occasions when other issues were "at play" such as financial constraints, capability, and capacity issues, which suggested a form of pragmatism.

"We would suggest that the "lived experience" of Aboriginal people, where it exposes locally acquired knowledge, must take precedence over the more general, but blunter, evidence of the empirical." (TAS)

SA said that the evidence base needs to be strengthened, noting that the development of sound new data sources will inform its implementation plan.

The Commonwealth stated that the parties recognise the significant data gaps and noted the commitment to an extensive data agenda over the life of the National Agreement.

Q. 28. Data and information collections are transparent and available for sharing between the partners.

Only two Government Parties agreed that data and information collections are transparent and available for sharing. All other Government Parties neither agreed nor disagreed. The Coalition of Peaks disagreed.

Q. 29. *Reasons for your answer and suggested improvements.*

The Coalition of Peaks said that data and information collections are not transparent to them. They also expressed concern about possible cherry-picking of data to support governments' positions during the negotiations.

"Equality in negotiations can only be achieved when all partners have access to all relevant data and information." (Coalition of Peaks)

All Partnership Parties agreed that further work is needed to improve the transparency and availability of data and information and noted the commitment in the National Agreement to a Data Development Plan. The Commonwealth also noted the development of the Productivity Commission dashboard.

Support for Aboriginal and Torres Strait Islander Participation

Q. 30. *Government Parties are providing adequate funding for the Coalition of Peaks to properly undertake its responsibilities.*

Five Government Parties agreed that adequate funding is being provided. Five neither agreed nor disagreed and the Coalition of Peaks disagreed.

Q. 31. *Reasons for your answer and suggested improvements.*

The Coalition of Peaks acknowledged funding for their secretariat but noted the lack of commensurate funding of the individual Peaks' secretariats to support their engagement during the negotiation of the National Agreement. They stated, "... by not resourcing the Peaks, their voice is diluted or even removed from the process."

The Commonwealth noted its three-year funding of the Coalition of Peaks secretariat and some other Government Parties noted that additional funding was provided for the engagement project and / or the negotiations.

Partnership Responsibilities

Q. 32. *Arrangements are in place for governments to effectively undertake their responsibility to build their own capacity to engage with Aboriginal and Torres Strait Islander people.*

Eight Government Parties agreed that these arrangements are in place. The Coalition of Peaks and two Government Parties neither agreed nor disagreed.

Q. 33. *What changes have governments made, or propose to make, to build their capacity to engage with Aboriginal and Torres Strait Islander people, particularly at the regional and local levels?*

All governments except SA noted arrangements already in place or proposed to build their capacity. SA referenced its response to Q.24 above. The ALGA said it's too early to comment as they are not aware of what jurisdictions are doing.

The Coalition of Peaks stressed that, as governments are building their capacity to engage, they must resource them and the community-controlled sector to ensure they can build their capacity to respond.

Risks and Mitigation strategies

Q. 34. *What do you consider are the major risks to the successful operation of the Partnership Agreement?*

Refer Risk Register.

Q. 35. *How should they be mitigated?*

Refer Risk Register.

Other Matters

Q. 36. *Are there any other matters not considered above?*

The Commonwealth suggests a formal 'no surprises' media protocol be agreed requiring all parties to the Partnership Agreement to notify each other "if they intend to make significant comment in the media about matters relating to the Partnership or implementation of the National Agreement."

Partnership Agreement – Draft Risk Register

RISK	RATING	MITIGATION
A Expectations of the Partnership Parties are not shared or jointly understood leading to misunderstandings and strained relationships	High	<ol style="list-style-type: none"> 1. The Partnership Working Group (PWG) devotes a full meeting to discussing the annual Health Check including reaching a shared understanding of the key principles and concepts. This meeting be held before the Joint Council meeting each year. 2. The Joint Council sets aside sufficient time to consider the findings and recommendations of the Health Check at its first meeting each year. <ol style="list-style-type: none"> a. An outcome from these meetings is an agreed protocol for how the Parties will work together going forward, including written procedures for agenda setting by Co-chairs and agreeing meeting dates, times and venues. b. Another outcome will be a shared understanding of key concepts, principles and structures of the Partnership Agreement. 3. The Drafting Group's role to consider draft papers for the PWG, seeking to iron out any areas of disagreement, is formalised and the Coalition of Peaks' Head of Secretariat be one of the Co-chairs. 4. Processes and procedures adopted for the National Partnership and National Agreement be adopted by all jurisdictions in developing their Implementation Plans.
B The volume, scope and nature of the work going forward is likely to put pressure on resources, timeframes and key individuals. Each of these processes will also involve points of difference and these have the potential to affect relationships within the Partnership	High	<ol style="list-style-type: none"> 5. Strategic planning will be enhanced by the development, monitoring and updating of a shared, strategic Forward Work Plan for PWG and Joint Council. This will allow Parties to carefully manage intersecting work agendas to minimise their impact on the delivery of commitments under the National Agreement. This may include looking for ways to share workloads and draw on additional resources from across their agencies or member organisations. 6. Joint Council and PWG meeting dates to be determined in discussions between the Co-chairs and a schedule of meetings (times, dates and venues) agreed at the beginning of each year (or before if possible). 7. A clear, written procedure is needed for the Co-chairs to agree agendas (after consideration by the Drafting Group) 8. Papers must be distributed well in advance of meetings so all parties have time to consider their positions and proper consultation with members/line agencies can occur. 9. Examples of good practice are shared among the Parties.

RISK	RATING	MITIGATION
<p>C Aboriginal and Torres Strait Islander communities and their organisations do not 'buy-in' to the Closing the Gap agenda</p>	High	<p>10. The Joint Communication Strategy in the National Agreement should mitigate this risk.</p> <p>11. Effective change management involving knowledge-building and strengthened capability to support implementation. For example, ahead of negotiations on Jurisdictional Implementation Plans, the Coalition of Peaks and governments will ensure that their representatives are equipped with the necessary information about the Priority Reforms and other National Agreement commitments and understand how to work effectively under the new partnership arrangements.</p> <p>12. Aboriginal and Torres Strait Islander communities and organisations observe the success of the arrangements in the changes that are made to improve their life outcomes through better community-controlled service delivery.</p> <p>13. Publication of the annual Health Check reports and Risk Registers and the Parties' responses to them.</p>
<p>D Governments fail to commit the resources or effort required to properly implement the spirit and intent of the National Agreement</p> <ul style="list-style-type: none"> ▪ Peaks do not have resources to properly engage in the implementation planning process – deliberately under-resourced and swamped by over-whelming demands ▪ Slippage due to lack of resolve and resources ▪ The momentum is not maintained and in five years the focus on implementation and action will have waned ▪ Unilateral changes to commitments made under Partnership Agreement and National Agreement and lip service paid ▪ Changes to key personnel <ul style="list-style-type: none"> ▪ Government Parties ▪ Coalition of Peaks ▪ Individual Peaks and community-controlled sector 	Medium	<p>14. National Peaks and the various state/territory coalitions of peaks to be properly resourced to engage governments and support their community-controlled sectors in the implementation phase. This is critical so that properly defined partnerships can be formed, and plans can be negotiated in a spirit of partnership and cooperation.</p> <p>15. Each jurisdiction adopts a change management approach to embed within their institutions of government the cultural change required so the new arrangements become the norm and are not reliant on key individuals.</p> <p>16. Changes in key personnel can be mitigated by deeply embedding the principles of the National Agreement across the whole-of-government.</p> <p>17. Succession planning by Peaks to ensure essential corporate knowledge is not lost. Governments encouraged to include succession planning into their implementation plans.</p> <p>18. It would be useful for the Joint Council work plan to account for and determine an approach to addressing the risk that there will be a loss of momentum over time, especially given the lessons learned from the Partnership Working Group on Closing the Gap review of the 2008 NIRA which found that loss of momentum over time contributed to aspects of policy and program failure for initiatives linked to the Closing the Gap building blocks.</p> <p>19. Accountability mechanisms within the National Agreement (three yearly Productivity Commission and Aboriginal and Torres Strait Islander led reviews) will work to contribute to an assessment as to whether governments have committed the resources and effort required to achieve real change.</p>

RISK	RATING	MITIGATION
<p>E Continuity of the Partnership Partners over the life of the Agreement is interrupted</p> <ul style="list-style-type: none"> ▪ The Coalition of Peaks does not continue for the life of the National Agreement ▪ Federal intergovernmental arrangements are changed during this period 	Low	<p>20. The Coalition of Peaks has a strong membership base and an effective Secretariat. Although hosted by NACCHO, it has asserted its separate identity through its own website, IT system and naming conventions. Its independence could be strengthened by incorporating as a separate legal entity and having its own office.</p> <p>21. The Commonwealth to consider guaranteed funding to the Coalition of Peaks for the duration of the National Agreement.</p> <p>22. The Partnership Agreement should be updated to reflect the recent transition from COAG to the National Federation Reform Council and National Cabinet.</p> <p>23. Governments have committed to the Partnership Agreement until 2029 while the National Agreement is open-ended.</p> <p>24. Governments should embed in their institutions the cultural change needed to sustain the transformational approach.</p> <p>25. Parties should actively seek bipartisanship within all jurisdictions for the Closing the Gap agenda.</p>
<p>F The interrelation between the Partnership Agreement and the National Agreement is lost in the enthusiasm to implement the National Agreement.</p>	Medium	<p>26. The new National Agreement, developed under the Partnership Agreement, commits the parties to several joint actions. It will be important that the implementation expectations to meet these commitments within the timeframes are equally understood, and that the priority focus of the partnership is on these joint, partnership actions.</p>

Partnership Agreement - Health Check 2020 Framework

Introduction

1. On 12 December 2018, the Council of Australian Governments (COAG)¹ committed to ensuring, “that the finalisation of targets and implementation of the (refreshed) Closing the Gap framework² occurs through a genuine, formal partnership between the Commonwealth, state and territory governments and Indigenous Australians through their elected representatives”.
2. Governments further noted that the “formal partnership must be based on mutual respect between parties and an acceptance that direct engagement and negotiation is the preferred pathway to productive and effective outcomes”.
3. On 22 March 2019, a formal Partnership Agreement on Closing the Gap (Partnership Agreement) was signed by the Commonwealth and all state and territory governments and the Australian Local Government Association (ALGA) (the Government Parties) and the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks).
4. The Parties committed to an annual Partnership Agreement Health Check against success indicators set by the Parties (clause 33) and agreed that a Risk Register for the Partner Agreement be developed and reviewed annually (clause 34).
5. This is the first Health Check of the Partnership Agreement. It will set a template for future annual health checks. It is being conducted at a critical time for the Parties as they negotiate a new National Agreement on Closing the Gap 2019-2029 (new National Agreement) to replace the National Indigenous Reform Agreement 2009-2019 (NIRA).

Health Check Methodology

6. This Health Check will assess the health of the partnership between the Coalition of Peaks and Governments – as elaborated in the Partnership Agreement entered into in March 2019. The way in which the Parties are working together to negotiate the new National Agreement on Closing the Gap will inform the Health Check, but the new National Agreement will not be evaluated in this process.
7. Success Indicators against which the health of the Partnership will be assessed have been developed (**ATTACHMENT 1**). The success indicators have been drawn directly from the Partnership Agreement, specifically the clauses outlining its intent – its Scope, Objectives, Governance Structures, Principles and Responsibilities.
8. The Health Check will be conducted by posing a series of structured questions and semi-structured interviews to the Partnership Parties about the operations of the Partnership Agreement as measured against these Success Indicators.
9. The independent contractor will facilitate a discussion with Coalition of Peaks’ organisations to support a comprehensive and consensus-based response to the questionnaire. Each jurisdiction and the ALGA will be asked their official positions on a range of matters related to the Partnership Agreement by completing a questionnaire. Separate semi-structured interviews will also be conducted with the Co-Chairs of the Joint Council and Partnership Working Group, as well as key officials. A proposed interview list is at (**ATTACHMENT 2**).
10. Separate Questionnaires have been developed for the:

¹ COAG was replaced by National Cabinet in May 2020. The terms “Governments” or “Government Parties” will be used when referring to the government partners in this document.

² Referred to as the *Closing the Gap* framework in the Partnership Agreement, the terminology changed to the National Agreement on Closing the Gap. The term ‘new National Agreement’ will be used throughout this document.

- a. the Coalition of Peaks (**ATTACHMENT 3**),
 - b. the Commonwealth, state and territory governments³ (**ATTACHMENT 4**), and
 - c. the ALGA (**ATTACHMENT 5**).
11. The questionnaires ask the same questions but are modified to reflect the different respondents. Although the Partnership Agreement is a national document, all levels of government are signatories. Therefore, the questions relate to the operations of the partnership at national, jurisdictional, regional and local levels as appropriate.
 12. Responses to the questionnaires and interviews will inform the final report and the risk register. Responses to the questionnaire may be appended to the report and be viewed by the public upon release. Responses to interviews will remain confidential between the interviewee and the contractor.

Partnership Objectives

13. The stated objectives (paraphrased) of the Partnership Agreement are to: enhance outcomes for Aboriginal and Torres Strait Islander people by ensuring their full involvement; share ownership of, and responsibility for, a new National Agreement; enhance credibility and support for the strategy by ensuring full participation; and advance involvement, engagement and autonomy through equitable participation, shared authority and decision making.

Partnership Scope

14. *The scope of Partnership Agreement is to give effect to the decision of Governments on 12 December 2018 relating to the new National Agreement (clause 11).*
15. It also extends to the Joint Council (see paragraph 18B below) and "... ensures the equal participation and shared decision making by Aboriginal and Torres Strait Islander people on Closing the Gap (clause 12).

Governance Arrangements

16. A partnership implies an equal sharing of power. However, there is an inherent power imbalance between the partners. Clearly, the Coalition of Peaks is in the minority

position. This minority position raises many issues around how the minority view gets traction throughout the different governance structures. How can their voice be heard within the government setting where the non-Indigenous perspectives dominate? How can there be true equality when governments (the majority position) control the resources and have ultimate decision making over the allocation those resources?

17. The Parties to the Partnership Agreement agreed on a unique set of governance arrangements to facilitate and give effect to equal participation and shared decision making. This section outlines the governance arrangements intended to overcome this power imbalance. This Health Check will consider whether they have been successful, whether they should be enhanced, and if so, how.
18. The governance arrangements are described below:

A. Partnership Parties consist of the Coalition of Peaks and National Cabinet⁴. The responsibilities of the Partnership Parties are detailed below (paragraph 17). Broadly their role is to agree, implement and monitor a new National Agreement on Closing the Gap (clause 15). Whilst structures have been established to give effect to the Partnership Agreement, the Partnership Parties are the ultimate decision makers, including for the new National Agreement. There does not appear to be an agreed process for convening and chairing formal meetings and agenda setting.

Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) made up of national, state and territory non-government Aboriginal and Torres Strait Islander organisations and some independent statutory authorities. There are currently 50 member organisations.

National Cabinet which replaced COAG in May 2020 – comprises the Prime Minister, Premiers and Chief Ministers. National Cabinet meets regularly. The National Federation Reform Council (NFRC) comprises Commonwealth, state and territory first ministers and

³ Each jurisdiction will be asked to complete the questionnaire as their government's official response.

⁴ Formerly the Council of Australian Governments (COAG).

treasurers and the ALGA and meets annually.

B. Ministerial Council of Australian Governments and Aboriginal and Torres Strait Islander People on Closing the Gap (Joint Council) – Ministers nominated by federal, state and territory governments, local government representative, and 12 members nominated by the Coalition of Peaks. Co-Chairs are the Commonwealth Minister and Lead Convenor of the Coalition of Peaks. The Co-Chairs are responsible for agenda setting and determining dates and locations for Joint Council meetings as well as chairing those meetings. The Joint Council met twice in 2019 – 27 March and 23 August – and met for the first time in 2020 on 3 July.

Priorities elaborated in the Joint Council's Terms of Reference⁵ include:

1. Negotiate the new National Agreement;
2. Review the NIRA;
3. Agree the methodology and terms of reference of the Indigenous led three yearly evaluation the new National agreement;
4. Agree the methodology and terms of reference for a review of progress nationally and in each jurisdiction;
5. Agree indicators for the health check;
6. Agree and monitor annually the risk register.

The Joint Council agreed the following Work Plan for 2019.

By November 2019 the Joint Council will:

- Endorse, for consideration by COAG, a draft National Agreement on Closing the Gap, taking into account outcomes from Peaks' led engagement processes, and including
 - Targets and indicators
 - Reform priorities
 - Accountability, monitoring and reporting arrangements
 - Implementation arrangements and timeframes
- Agree Partnership health check principles and risk register

- Agree the Joint Council work plan for 2020.

C. Partnership Working Group (PWG)⁶ – comprising 'Deputy senior officials' from each state and territory, local government and Coalition of Peaks' members. Co-Chairs are the Lead Convenor of the Coalition of Peaks and the Senior official from the Commonwealth. The Co-Chairs are responsible for agenda setting and determining dates and locations for PWG meetings. Meetings are held regularly.

The PWG's Terms of Reference state that its primary role is the implementation of the Partnership Agreement and the decisions of the Joint Council including resolution of issues referred to it by the Joint Council.

It will prepare or endorse all agendas and papers for consideration of the Joint Council, including on:

- reviewing the NIRA including finalising the new National Agreement;
- monitoring performance against the jointly agreed framework and targets;
- monitoring implementation;
- developing partnership health check performance indicators and undertaking an annual health check;
- developing a partnership risk register, and monitoring and updating the risk register;
- developing the terms for formal review of the Partnership Agreement at 3, 6 and 9 years as per clause 32 of the Partnership Agreement;
- developing the methodology and terms of reference for the Indigenous-led three yearly evaluation, for a review of progress nationally and in each jurisdiction; based on a proposal from the Coalition of Peaks as per Clause 29 of the Partnership Agreement recognising the need for alignment of methods but flexibility to respond appropriately to local context; and
- preparing draft Joint Council meeting Communiqués.

19. The Secretariat for both the Joint Council and the PWG is located in the National

⁵ Approved 23 August 2019 at the Joint Council's second meeting.

⁶ The Joint Council and Partnership Working Group may establish additional working groups to progress the work of the Joint Council. None has been established to date.

Indigenous Australians Agency (NIAA). The Coalition of Peaks has its own Secretariat located in the National Aboriginal Community Controlled Health Organisation (NACCHO).

20. Under the Partnership Agreement, the Parties acknowledge the need for the Coalition of Peaks to be properly resourced to fulfil its role in the Partnership, principally its role to represent the interests of its members organisations and, through them, the Aboriginal and Torres Strait Islander people. It states specifically that the Coalition of Peaks must be “provided with adequate and ongoing financial support to enable them to engage and negotiate as equal partners....”.
21. Specific arrangements have been put in place to facilitate the negotiation and drafting of the new National Agreement. A drafting group with representatives from the Commonwealth, Western Australia, Victoria and the Coalition of Peaks has taken this responsibility.

Partnership Principles

22. Nine Partnership Principles are included in the Partnership Agreement (Clause 14). They are paraphrased below:
 - a. The new National Agreement is the overarching policy that will inform all Parties’ actions for the next 10 years;
 - b. The Coalition of Peaks represents an unparalleled network through which Aboriginal and Torres Strait Islander communities can engage governments;
 - c. The diverse range of existing and emerging approaches to shared decision making and self-determination may enhance the Partnership Agreement. Recognises the importance of both national and local priority setting and local service delivery;
 - d. Commitment to open and transparent negotiation and shared decision making when negotiating and implementing the new National Agreement;
 - e. Shared decision making by consensus;
 - f. Aboriginal and Torres Strait Islander peoples are the key agents of change in Closing the Gap and must be granted agency in the development and

implementation of policies and programs which impact their lives;

- g. Equal participation in the Partnership Agreement will be actively pursued by all Parties, identifying and addressing barriers to Aboriginal and Torres Strait Islander participation, including systemic and structural racism, discrimination and unconscious bias;
 - h. All Parties are responsible for the success of the Partnership Agreement and share an equal say in how it is operating; and
 - i. Decisions are evidence based and underpinned by the transparent sharing of data and information.
23. These principles clearly underpin the importance of the partnership, the voice of the Coalition of Peaks as representatives of Aboriginal and Torres Strait Islander people, the requirement for transparency and shared decision making, self-determination, and addressing barriers to equal participation.
 24. In addition to the reference to self-determination in the principles, the Preamble to the Partnership Agreement states that “Aboriginal and Torres Strait Islander self-determination is recognised as key to achieving changes in the lives of Aboriginal and Torres Strait Islander People and this Agreement embodies that intent.”
 25. This Health Check will consider how approaches to self-determination and shared decision making are being recognised and enhanced.

Responsibilities of the Parties to the Partnership Agreement

26. The Partnership Agreement outlines the responsibilities of all Parties (Clauses 15) and Government Parties (Clause 16). These are reproduced below:

“All parties to the agreement are jointly responsible for agreeing the design, policy principles and priorities, implementation principles, oversight and monitoring of the National Closing the Gap framework and associated targets, and the review of the National Indigenous Reform Agreement (NIRA), as follows:

 - a. Finalising a Closing the Gap framework, including a COAG Closing the Gap

agreement, for the next ten years which covers the overarching policy, implementation principles, targets, cross cutting themes, engagement and public accountability arrangements;

- b. Establishing annual work plans for the Joint Council on Closing the Gap (Joint Council), for agreement by the Joint Council;
- c. Monitoring progress against jointly agreed targets and indicators; and
- d. Sharing quantitative and qualitative data, other than that which is sensitive and commercial in confidence, that will enable the Closing the Gap framework, and any associated review, annual policy setting and policy adjustment, to be properly informed by evidence.

The COAG parties will:

- a. Continue to maintain responsibility to provide funding for Closing the Gap, including mainstream services and programs. The Partnership Agreement does not transfer funding responsibility to the Coalition of Peaks;
- b. Continue to build their own capacity to engage Aboriginal and Torres Strait Islander people; and
- c. Implement Closing the Gap [sic] consistent with the principles of this partnership, the agreed national framework and in line with the agreed implementation principles.”

Support for Aboriginal and Torres Strait Islander Participation

- 27. The partnership can only be successful if both Parties have the resources needed to carry out their responsibilities under the Partnership Agreement effectively. The Government Parties, with the resources of government to call on have a distinct advantage over the Coalition of Peaks who are in a decidedly inferior financial position. Indeed, the Partnership Agreement recognises this, and states that “The Parties acknowledge that the Coalition of Peaks need[s] to be provided with adequate and ongoing financial support to enable them to engage and negotiate as equal partners within the

formal Partnership Agreement...” (Clause 30). This resourcing is not only needed at the national level, but must also be made available at the jurisdictional, regional and local levels.

Key Issues for Consideration in the Health Check

- 28. These arrangements require a profound transformation to the way governments work with Aboriginal and Torres Strait Islander people. They must negotiate in good faith and not use their superior power to the detriment of Aboriginal and Torres Strait Islander people. They must support and facilitate real self-determination⁷ by Aboriginal and Torres Strait Islander peoples. They must commit resources over a ten-year period to improve significantly the life outcomes and wellbeing of Aboriginal and Torres Strait Islander people. They must build their own capacity to engage meaningfully with Aboriginal and Torres Strait Islander people, particularly at the regional and local levels.
- 29. The NIRA has been reviewed, resulting in the current negotiation of a new National Agreement which is near completion. These negotiations early in the life of the Partnership Agreement have provided an early testing of the Partnership, particularly the Parties’ commitment to implementing meaningfully the principles and the structures established within the Partnership Agreement.
- 30. The purpose of this Health Check is to assess how well the partnership under the Partnership Agreement is functioning – what’s working and what’s not working – and recommend ways it may be strengthened.

⁷ For an explanation of the right to self-determination, see Australian Human Rights Commission, *Right to self-determination* at: <https://humanrights.gov.au/our-work/rights-and-freedoms/right-self-determination#first%20peoples> (accessed 1 July 2020)

Success Indicators

Partnership Context

The “formal partnership must be based on mutual respect between parties and an acceptance that direct engagement and negotiation is the preferred pathway to productive and effective outcomes” (Clause 2).

1. The Partnership Agreement is fulfilling its purpose of facilitating a better way of working between governments and Aboriginal and Torres Strait Islander people

Partnership Governance

Unique governance arrangements have been established to give the partnership real value, including the Partnership Parties consisting of the Coalition of Peaks and National Cabinet and the ALGA, the Ministerial Council on Closing the Gap (Joint Council (Clause) with representation from Ministers and the Coalition of Peaks, and a Partnership Working Group made up of the Coalition of Peaks and senior officials.

2. The structures established under the Partnership Agreement are working to give effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination
3. Working arrangements to address the power imbalance in the relationship between the Partnership Parties are in place and effective

Partnership Principles

Equal participation in the Partnership Agreement will be actively pursued by all parties. This includes identifying and addressing systemic barriers and structural racism, discrimination, and unconscious bias and other barriers to Aboriginal and Torres Strait Islander Australians’ equal participation in the Partnership Agreement (Principle 14 g).

4. Barriers to equal participation (systemic and structural racism, discrimination and unconscious bias) are being identified and addressed

The Parties commit to open and transparent negotiation and shared decision making on matters on matters relating to the design and implementation of the [new National

Agreement] and this Partnership Agreement. Shared decision making is fundamental to a genuine partnership and means that the Coalition of Peaks are (sic) fully engaged, consulted with, and can negotiate prior to a decision being made by the Government Parties in relation to the Partnership Agreement (Principle 14 d).

5. Open and transparent negotiation and shared decision making are consistently observed when Parties are making decisions

The Parties acknowledge that the Coalition of Peaks are (sic) accountable to and in direct contact with communities at the local level; and provide an unparalleled network through which communities can engage with governments in respect to setting, implementing and monitoring of Closing the Gap targets. This network is much more significant than any engagement that governments can achieve alone through their own consultations (Principle 14 b).

6. The views of the Coalition of Peaks are being heard and comprehended in the process of negotiating the new National Agreement and more broadly under the Partnership Agreement
7. The Coalition of Peaks is accountable to its member organisations which are directly accountable to their communities representing an unparalleled network for engagement by governments with Aboriginal and Torres Strait Islander people

The Partnership Agreement can be enhanced by a diverse range of existing and emerging approaches to shared decision making and self-determination across Aboriginal and Torres Strait Islander communities if they are consistent with the national policy and contribute to Closing the Gap at the local level. This recognises the importance of both national priorities for collective action and of enabling local communities to set their own priorities and tailor their services to their unique contexts (Principle 14 c).

8. Existing and emerging approaches to shared decision making and self-determination and local priority-setting and service delivery are being provided for and encouraged by all Partnership Parties

The Parties agree that shared decision making is by consensus as part of the Partnership Agreement, at the Joint Council and any related Working Group (Principle 14 e).

9. Decisions under the Partnership Agreement are made by consensus

Aboriginal and Torres Strait Islander people are the key agents of change in Closing the Gap and must be granted agency in the development and implementation of programs that impact their lives (Principle 14 f).

10. Arrangements are in place or proposed to strengthen the agency of Aboriginal and Torres Strait Islander people in the development and implementation of programs which impact their lives

All Parties are responsible for the Partnership Agreement and share an equal say in how it operates (Principle 14 h).

11. All Parties accept their responsibility for the success of the Partnership Agreement, and have an equal say in how it operates

Decisions made under the Partnership Agreement will be evidence based and underpinned by the transparent sharing of data (Principle 14 i).

12. Decisions are based on evidence (empirical and lived experience)
13. Data and information collections are transparent and available for sharing between the Partnership Parties

Support for Aboriginal and Torres Strait Islander Participation

The Parties acknowledge that the Coalition of Peaks need[s] to be provided with adequate and ongoing financial support to enable them to engage and negotiate as equal partners within the formal Partnership Agreement ... (Clause 30).

14. Government Parties are providing adequate funding for the Coalition of Peaks to undertake its responsibilities effectively

Partnership Responsibilities

The Government Parties will continue to build their capacity to engage with Aboriginal and Torres Strait Islander people (Clause 16. b).

15. Governments Parties are undertaking effectively their responsibility to build their own capacity to engage Aboriginal and Torres Strait Islander people, particularly at the regional and local levels

All Success Indicators will be assessed by responses to the questionnaires and interviews. The Coalition of Peaks and the Commonwealth, state and territory governments and the ALGA will be asked a series of questions about how well the partnership established by the Partnership Agreement (objectives, scope, governance arrangements, principles and responsibilities) is functioning – whether they are working well and if not, how they may be improved.

In considering their responses to the questions, respondents should be cognisant of the following protocols:

- a. Partnership Parties feel respected by all other parties and direct engagement and negotiation has occurred
- b. Conversations have a focus on providing solutions (potential solutions are provided with any criticism)
- c. Negotiations have an emphasis on policy substance over process form
- d. Parties resolve difficulties and misunderstandings in the spirit of cooperation, good faith and mutual trust
- e. There is a ‘no surprises’ principle – all ideas are socialised with officials prior to being raised at Partnership Working Group or Joint Council meetings
- f. Open communication – Parties can freely express ideas without prejudice, and can speak frankly without fear of reprisals
- g. Parties are provided with adequate time to consider issues and papers

Partnership Health Check 2020

Proposed Interview List

1. Co-chair of the Joint Council: Lead Convener of the Coalition of Peaks
2. Co-chair of the Joint Council: Minister for Indigenous Australians
3. Co-chair of the Partnership Working Group: Deputy CEO, Policy and Programs, National Indigenous Australians Agency
4. Coalition of Peaks Secretariat: Head of Secretariat
5. Jurisdictional representatives:
 - a. Commonwealth: Group Manager, National Indigenous Australians Agency and Branch Manager, Closing the Gap, National Indigenous Australians Agency
 - b. Tasmania: Deputy Secretary, Department of Communities
 - c. Victoria: Acting Manager, Aboriginal Affairs Policy, Department of Premier and Cabinet
 - d. Western Australia: Assistant Director, Aboriginal Engagement, Department of the Premier and Cabinet
 - e. New South Wales: Principal Policy Officer, Aboriginal Affairs
 - f. Northern Territory: Director of Policy, Office of Aboriginal Affairs
 - g. Queensland: Director of Social Policy, Department of Aboriginal and Torres Strait Islander Partnerships
 - h. Australian Capital Territory: Executive Branch Manager, Community Services Directorate
 - i. South Australia: Director, Aboriginal Affairs and Reconciliation, Department of the Premier and Cabinet
 - j. Australian Local Government Association: Executive Director, Policy and Research

This is a suggested list. Names to be confirmed by each jurisdiction and the ALGA.

Partnership Agreement Health Check

Coalition of Peaks

Date of Teleconference:

In attendance:

National Members		Attending
1.	Congress of Aboriginal and Torres Strait Islander Nurses and Midwives	
2.	First Nations Media Australia	
3.	First Peoples Disability Network	
4.	Indigenous Allied Health Australia	
5.	Lowitja Institute	
6.	National Aboriginal and Torres Strait Islander Health Worker Association	
7.	National Aboriginal and Torres Strait Islander Legal Services	
8.	National Aboriginal Community Controlled Health Organisation	
9.	National Family Violence Prevention Legal Services Forum	
10.	National Native Title Council	
11.	Australian Indigenous Doctors' Association	
12.	SNAICC – National Voice for Our Children	
13.	The Healing Foundation	
State / Territory Members		Attending
14.	Western Australia	
15.	Tasmania	
16.	Northern Territory	
17.	Australian Capital Territory	
18.	Queensland	
19.	South Australia	
20.	Victoria	
21.	New South Wales	

Instructions

Please read the Health Check Framework and Success Indicators in preparation for our facilitated discussion.

The following questions seek the Coalition's consensus views about the success of the partnership as elaborated by the Partnership Agreement. Responses will be used to assess the current state of the partnership and, where necessary, develop recommendations for strengthening the partnership.

You will be asked to: indicate your level of agreement (agree, neither agree nor disagree, disagree) to a range of matters directly related to the Partnership Agreement; give reasons for your ratings; and suggest enhancements and improvements if deemed necessary.

In considering your responses to the questions, please be cognisant of the following protocols:

- Partnership Parties feel respected by all other parties and direct engagement and negotiation has occurred

- b. Conversations have a focus on providing solutions (potential solutions are provided with any criticism)
- c. Negotiations have an emphasis on policy substance over process form
- d. Parties resolve difficulties and misunderstandings in the spirit of cooperation, good faith and mutual trust
- e. There is a 'no surprises' principle – all ideas are socialised with officials prior to being raised at Partnership Working Group or Joint Council meetings
- f. Open communication – Parties can freely express ideas without prejudice, and can speak frankly without fear of reprisals
- g. Parties are provided with adequate time to consider issues and papers.

Partnership Agreement Purpose

At the time the agreement was signed, it was hailed as an historic step forward in the relationship between Aboriginal and Torres Strait Islander peoples and governments, a new way of doing business. The Prime Minister said, "In order to effect real change, governments must work collaboratively and in genuine, formal partnership with Aboriginal and Torres Strait Islander peoples because they are the essential agents of change."

Governments committed to ensuring, "that the finalisation of targets and implementation of the [new National Agreement] occurs through a genuine, formal partnership between the Commonwealth, state and territory governments and Indigenous Australians through their elected representatives" (clause 1).

Governments further noted that the "formal partnership must be based on mutual respect between parties and an acceptance that direct engagement and negotiation is the preferred pathway to productive and effective outcomes" (clause 2).

A Health Check of the Partnership Agreement is to be held annually against success indicators agreed by the Parties (clause 33). A Risk register will also be jointly developed and reviewed at the annual Partnership Agreement Health Check (clause 34).

Responses to the following questions will be used to assess the current state of the partnership and where necessary, develop recommendations for strengthening the Partnership Agreement.

Partnership Objectives

The stated objectives (paraphrased) of the Partnership Agreement are to: enhance outcomes for Aboriginal and Torres Strait Islander people by ensuring their full involvement; share ownership of, and responsibility for, a new National Agreement; enhance credibility and support for the strategy by ensuring full participation; and advance involvement, engagement and autonomy through equitable participation, shared authority and decision making.

The following question asks you to rate the Peaks' overall level of agreement with the success of the Partnership Agreement after 16+ months of its operation.

1. Do you agree or disagree with the following statement?

The Partnership Agreement is fulfilling its purpose of facilitating a better way of working between governments and Aboriginal and Torres Strait Islander people.

Agree
Neither Agree nor Disagree
Disagree

2. Please give reasons for your choice
<Key in response here>

Governance Arrangements

To give effect to this new way of working together, governance structures were designed to ensure equal participation and shared decision making. This was in recognition of the overwhelming power and resources of the majority government parties against the minority voice of the Coalition of Peaks; an attempt to resolve the inherent structural imbalance.

The Coalition of Peaks and the Commonwealth, state and territory governments and the ALGA are represented on the Joint Ministerial Council and the Partnership Working Group. The Commonwealth's NIAA hosts the secretariat for both forums. The Commonwealth's Minister and Senior Official are the Co-Chairs with the Lead Coordinator of the Coalition of Peaks of the Joint Council and PWG respectively.

The following questions are intended to seek your views as to the effectiveness of these governance arrangements.

3. Do you agree or disagree with the following statement?

Working arrangements to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander peoples are in place and effective.

Agree
Neither Agree nor Disagree
Disagree

4. What working arrangements are in place to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander peoples?

<Key in response here>

5. How can these arrangements be strengthened?

<Key in response here>

6. Do you agree or disagree with the following statement?

The structures established under the Partnership Agreement are working to give effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination.

Agree
Neither Agree nor Disagree
Disagree

7. How are governments giving effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination? Please address each one in turn.

<Key in response here>

8. Do you agree or disagree with the following statement?

The Government Parties – collectively and individually – are listening to and taking account of the views of the Coalition of Peaks.

Agree
Neither Agree nor Disagree
Disagree

9. How is this demonstrated?

<Key in response here>

Partnership Principles

Each of the Partnership Principles elaborated in the Partnership Agreement is summarised below (in bold). Your views are sought on whether they are being adhered to.

The following questions are intended to seek your views on the effectiveness of these Partnership Principles in practice.

The new National Agreement is the overarching policy that will inform all Parties' actions for the next 10 years.

10. Do you agree or disagree with the following statement?

The Parties have accepted the principle that the new National Agreement is the overarching policy that will inform all Parties' actions for the next 10 years.

Agree
Neither Agree nor Disagree
Disagree

11. If you think improvement is needed, what needs to be done?

<Key in response here>

The Coalition of Peaks represents an unparalleled network through which Aboriginal and Torres Strait Islander communities can engage governments.

12. Do you agree or disagree with the following statement?

The Coalition of Peaks is accountable to its member organisations which are directly accountable to their communities and represents an appropriate and legitimate network for engaging with Aboriginal and Torres Strait Islander Peoples.

Agree
Neither Agree nor Disagree
Disagree

13. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

14. What more could be done by governments to demonstrate their commitment?

<Key in response here>

The diverse range of existing and emerging approaches to shared decision making and self-determination may enhance the Partnership Agreement. The importance of both national and local priority-setting and local service delivery is recognised.

15. Do you agree or disagree with the following statement?

Existing and emerging approaches to shared decision making and self-determination and local priority-setting and service delivery are being provided for and encouraged.

Agree
Neither Agree nor Disagree
Disagree

16. How are the Government Parties demonstrating their commitment to encouraging and supporting existing and emerging approaches to shared decision making and Aboriginal and Torres Strait Islander self-determination, particularly at the regional and local levels?

<Key in response here>

Commitment to open and transparent negotiation and shared decision making when Parties are making decisions.

17. Do you agree or disagree with the following statement?

The Partnership Parties are demonstrating their commitment to open and transparent negotiations and shared decision making.

Agree
Neither Agree nor Disagree
Disagree

18. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

Shared decision making by consensus.

19. Do you agree or disagree with the following statement?

Decisions under the Partnership Agreement are being made by consensus.

Agree
Neither Agree nor Disagree
Disagree

20. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

Aboriginal and Torres Strait Islander peoples are the key agents of change in Closing the Gap and must be granted agency in the development and implementation of policies and programs which impact their lives.

21. Do you agree or disagree with the following statement?

Arrangements are in place or proposed to strengthen the agency of Aboriginal and Torres Strait Islander people in the development and implementation of programs which impact their lives.

Agree
Neither Agree nor Disagree
Disagree

22. What are these arrangements? How can they be improved?

<Key in response here>

Equal participation in the Partnership Agreement will be actively pursued by all Parties, identifying and addressing barriers to Aboriginal and Torres Strait Islander participation, including systemic and structural racism, discrimination and unconscious bias.

23. Do you agree or disagree with the following statement?

The barriers to equal participation (systemic and structural racism, discrimination and unconscious bias) are being identified and addressed.

Agree
Neither Agree nor Disagree
Disagree

24. How are they being addressed?

<Key in response here>

25. Are these arrangements working well? If not, how can they be improved?

<Key in response here>

Decisions are evidence based and underpinned by the transparent sharing of data and information.

26. Do you agree or disagree with the following statement?

Decisions made under the Partnership Agreement are based on evidence (empirical and lived experience).

Agree
Neither Agree nor Disagree
Disagree

27. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

28. Do you agree or disagree with the following statement?

Data and information collections are transparent and available for sharing between the partners.

Agree
Neither Agree nor Disagree
Disagree

29. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

Support for Aboriginal and Torres Strait Islander Participation

The Parties to the Partnership Agreement agreed that the partnership can only be successful if both Parties have the resources needed to carry out their responsibilities under the Partnership Agreement effectively. The Government Parties, with the resources of government to call on have a distinct advantage over the Coalition of Peaks who are in a decidedly inferior financial position. For this reason, it was agreed that Coalition of Peaks should be provided with adequate and ongoing financial support in order to engage and negotiate as equal partners.

30. Do you agree or disagree with the following statement?

Government Parties are providing adequate funding for the Coalition of Peaks to properly undertake its responsibilities.

Agree
Neither Agree nor Disagree
Disagree

31. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Key in response here>

Partnership Responsibilities

All Parties to the National Partnership are jointly responsible for agreeing the design, policy principles and priorities, implementation principles, oversight and monitoring the new National Agreement 2019-2029 and reviewing the NIRA (2009-2019).

Governments are responsible for providing funding for the National Agreement and continuing mainstream services; building their capacity to engage Aboriginal and Torres Strait Islander people; and implementing the National Agreement consistent with the Partnership Agreement principles and in line with the agreed implementation principles (in the National Agreement).

The following questions are intended to seek your views on the whether the Coalition of Peaks and governments are undertaking their responsibilities under the National Partnership effectively.

32. Do you agree or disagree with the following statement?

Arrangements are in place for governments to effectively undertake their responsibility to build their own capacity to engage Aboriginal and Torres Strait Islander people.

Agree
Neither Agree nor Disagree
Disagree

33. What changes have governments made, or propose to make, to build their capacity to engage Aboriginal and Torres Strait Islander people, particularly at the regional and local levels?

<Key in response here>

Partnership Risks

34. What do you consider are the major risks to the successful operation of the Partnership Agreement?

<Key in response here>

35. How should they be mitigated?

<Key in response here>

Other Matters

36. Are there any other matters not considered above that you would like to comment on in this Health Check?

<Key in response here>

Partnership Health Check 2020

Government Questionnaire

Date:

Government:

Name and Position of person completing this questionnaire:

Instructions

Please read the Health Check Framework before completing this questionnaire. The questionnaire must be completed and returned to the independent contractor conducting the health check on or before **Friday 11 September 2020**.

The following questions seek your Government's official views about the success of the partnership as elaborated in the Partnership Agreement. Responses will be used to assess the current state of the partnership and where necessary, develop recommendations for strengthening the Partnership Agreement.

Please indicate your Government's level of agreement or disagreement by circling one option. You will also be asked to explain your choice and suggest enhancements and improvements where needed.

Please key in your Government's responses in the appropriate place. There is no limit on the number of words in your responses.

This questionnaire will be followed up with interviews to seek clarification of issues and examples of good practice.

In considering your Government's responses to the questions, respondents should be cognisant of the following protocols:

- a. Partnership Parties feel respected by all other parties and direct engagement and negotiation has occurred
- b. Conversations have a focus on providing solutions (potential solutions are provided with any criticism)
- c. Negotiations have an emphasis on policy substance over process form
- d. Parties resolve difficulties and misunderstandings in the spirit of cooperation, good faith and mutual trust
- e. There is a 'no surprises' principle – all ideas are socialised with officials prior to being raised at Partnership Working Group or Joint Council meetings
- f. Open communication – Parties can freely express ideas without prejudice, and can speak frankly without fear of reprisals
- g. Parties are provided with adequate time to consider issues and papers.

Partnership Agreement Purpose

At the time the agreement was signed, it was hailed as an historic step forward in the relationship between Aboriginal and Torres Strait Islander peoples and governments, a new way of doing business. The Prime Minister said, "In order to effect real change, governments must work collaboratively and in genuine, formal partnership with Aboriginal and Torres Strait Islander peoples because they are the essential agents of change."

Governments committed to ensuring, "that the finalisation of targets and implementation of the [new National Agreement] occurs through a genuine, formal partnership between the Commonwealth, state and territory governments and Indigenous Australians through their elected representatives" (clause 1).

Governments further noted that the "formal partnership must be based on mutual respect between parties and an acceptance that direct engagement and negotiation is the preferred pathway to productive and effective outcomes" (clause 2).

A Health Check of the Partnership Agreement is to be held annually against success indicators agreed by the Parties (clause 33). A Risk register will also be jointly developed and reviewed at the annual Partnership Agreement Health Check (clause 34).

Partnership Objectives

The stated objectives (paraphrased) of the Partnership Agreement are to: enhance outcomes for Aboriginal and Torres Strait Islander people by ensuring their full involvement; share ownership of, and responsibility for, a new National Agreement; enhance credibility and support for the

strategy by ensuring full participation; and advance involvement, engagement and autonomy through equitable participation, shared authority and decision making.

The following question asks you to rate your Government's overall level of agreement with the success of the Partnership Agreement after 15 months of its operation.

1. Does your Government agree or disagree with the following statement?

The Partnership Agreement is fulfilling its purpose of facilitating a better way of working between governments and Aboriginal and Torres Strait Islander people.

Agree
Neither Agree nor Disagree
Disagree

2. Please provide reasons for your choice

<Please key in your response here>

Governance Arrangements

To give effect to this new way of working together, governance structures were designed to ensure equal participation and shared decision making. This was in recognition of the overwhelming power and resources of the majority government parties against the minority voice of the Coalition of Peaks; an attempt to resolve the inherent structural imbalance.

The Coalition of Peaks and the Commonwealth, state and territory governments and the ALGA are represented on the Joint Ministerial Council and the Partnership Working Group. The Commonwealth's NIAA hosts the secretariat for both forums. The Commonwealth's Minister and Senior Official are the Co-Chairs with the Lead Coordinator of the Coalition of Peaks of the Joint Council and PWG respectively.

The following questions are intended to seek your Government's views as to the effectiveness of these governance arrangements.

3. Does your Government agree or disagree with the following statement?

Working arrangements to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander people are in place and effective.

Agree
Neither Agree nor Disagree
Disagree

4. What working arrangements are in place to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander people?

<Please key in your response here>

5. How can the working arrangements be strengthened?

<Please key in your response here>

6. Does your Government agree or disagree with the following statement?

The structures established under the Partnership Agreement are working to give effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination.

Agree
Neither Agree nor Disagree
Disagree

7. How is your Government giving effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination? Please address each one in turn.

<Please key in your response here>

8. Does your Government agree or disagree with the following statement?

The Government Parties, collectively and individually, are listening to and taking account of the views of the Coalition of Peaks.

Agree
Neither Agree nor Disagree
Disagree

9. How is this demonstrated?

<Please key in your response here>

Partnership Principles

Each of the Partnership Principles elaborated in the Partnership Agreement is paraphrased below (in bold). Your views are sought on whether they are being observed and adhered to.

The following questions are intended to seek your views on the effectiveness of these Partnership Principles in practice.

The new National Agreement is the overarching policy that will inform all Parties' actions for the next 10 years.

10. Does your Government agree or disagree with the following statement?

The Parties have accepted that the new National Agreement is the overarching policy that will inform all Parties' actions for the next ten years.

Agree
Neither Agree nor Disagree
Disagree

11. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

The Coalition of Peaks represents an unparalleled network through which Aboriginal and Torres Strait Islander communities can engage governments.

12. Does your Government agree or disagree with the following statement?

The Coalition of Peaks is accountable to its member organisations which are directly accountable to their communities and represents an appropriate and legitimate network for engaging with Aboriginal and Torres Strait Islander Peoples.

Agree
Neither Agree nor Disagree
Disagree

13. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

14. What more should be done by governments to demonstrate their commitment?

<Please key in your response here>

The diverse range of existing and emerging approaches to shared decision making and self-determination may enhance the Partnership Agreement. The importance of both national and local priority-setting and local service delivery is recognised.

15. Does your Government agree or disagree with the following statement?

Existing and emerging approaches to shared decision making and self-determination and local priority-setting and service delivery are being provided for and encouraged.

Agree
Neither Agree nor Disagree
Disagree

16. How is your Government demonstrating its commitment to encouraging and supporting existing and emerging

approaches to shared decision making and Aboriginal and Torres Strait Islander self-determination, particularly at the regional and local levels?

<Please key in your response here>

Commitment to open and transparent negotiation and shared decision making when Parties are making decisions.

17. Does your Government agree or disagree with the following statement?

Parties are demonstrating their commitment to open and transparent negotiations and shared decision making.

Agree
Neither Agree nor Disagree
Disagree

18. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Shared decision making by consensus.

19. Does your Government agree or disagree with the following statement?

Decisions under the Partnership Agreement are being made by consensus.

Agree
Neither Agree nor Disagree
Disagree

20. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Aboriginal and Torres Strait Islander peoples are the key agents of change in Closing the Gap and must be granted agency in the development and implementation of policies and programs which impact their lives.

21. Does your Government agree or disagree with the following statement?

Arrangements are in place or proposed to develop and strengthen the agency of Aboriginal and Torres Strait Islander people in the development and implementation of programs which impact their lives.

Agree
Neither Agree nor Disagree
Disagree

22. What are these arrangements? How can they be improved?

<Please key in your response here>

Equal participation in the Partnership Agreement will be actively pursued by all Parties, identifying and addressing barriers to Aboriginal and Torres Strait Islander participation, including systemic and structural racism, discrimination and unconscious bias.

23. Does your Government agree or disagree with the following statement?

Barriers to equal participation (systemic and structural racism, discrimination and unconscious bias) are being identified and addressed.

Agree
Neither Agree nor Disagree
Disagree

24. How are they being addressed?

<Please key in your response here>

25. Are these arrangements working well? If not, how can they be improved?

<Please key in your response here>

Decisions are evidence based and underpinned by the transparent sharing of data and information.

26. Does your Government agree or disagree with the following statement?

Decisions made under the Partnership Agreement are based on evidence (empirical and lived experience).

Agree
Neither Agree nor Disagree
Disagree

27. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

28. Does your Government agree or disagree with the following statement?

Data and information collections are transparent and available for sharing between the partners.

Agree
Neither Agree nor Disagree
Disagree

29. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Support for Aboriginal and Torres Strait Islander Participation

The Parties to the Partnership Agreement agreed that the partnership can only be successful if both Parties have the resources needed to carry out their responsibilities under the Partnership Agreement effectively. The Government Parties, with the resources of government to call on have a distinct advantage over the Coalition of Peaks who are in a decidedly inferior financial position. For this reason, it was agreed that Coalition of Peaks should be provided with adequate and ongoing financial support in order to engage and negotiate as equal partners.

30. Do you agree or disagree with the following statement?

Government Parties are providing adequate funding for the Coalition of Peaks to undertake its responsibilities effectively.

Agree
Neither Agree nor Disagree
Disagree

31. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Partnership Responsibilities

All Parties to the National Partnership are jointly responsible for agreeing the design, policy principles and priorities, implementation principles, oversight and monitoring the new National Agreement 2019-2029 and reviewing the NIRA (2009-2019).

Governments are responsible for providing funding for the National Agreement and continuing mainstream services; building their capacity to engage Aboriginal and Torres Strait Islander people; and implementing the National Agreement consistent with the Partnership Agreement principles and in line with the agreed implementation principles (in the National Agreement).

The following questions are intended to seek your views on the whether the Coalition of Peaks and governments are effectively undertaking their responsibilities under the National Partnership.

32. Does your Government agree or disagree with the following statement?

Arrangements are in place in your jurisdiction to effectively undertake your government's responsibility to build its own

capacity to engage Aboriginal and Torres Strait Islander people.

Agree

Neither Agree nor Disagree

Disagree

33. What specific reforms have been put in place, or are proposed, to build the capacity of your Government to engage Aboriginal and Torres Strait Islander people, particularly at the regional and local levels?

<Please key in your response here>

Partnership Risks

34. What does your Government consider are the major risks to the successful operation of the Partnership Agreement?

<Please key in your response here>

35. How should they be mitigated?

<Please key in your response here>

Other Matters

36. Are there any other matters not considered above that your Government would like to comment on in this Health Check?

<Please key in your response here>

Partnership Health Check 2020

ALGA Questionnaire

Date:

Name and Position of person completing this questionnaire:

Instructions

Please read the Health Check Framework before completing this questionnaire. The questionnaire must be completed and returned to the independent contractor conducting the health check on or before **Friday 11 September 2020**.

The following questions seek your Association's official views about the success of the partnership as elaborated in the Partnership Agreement. Your Association's responses will be used, together with those of the Coalition of Peaks and Commonwealth, state and territory governments to assess the current state of the partnership and where necessary, develop recommendations for strengthening the Partnership Agreement.

Please indicate your Association's level of agreement or disagreement by circling one option. You will also be asked to explain your choice and suggest enhancements and improvements where needed.

Please key in your Association's responses in the appropriate place. There is no limit on the number of words in your responses.

This questionnaire will be followed up with interviews to seek clarification of issues and examples of good practice.

In considering your Association's responses to the questions, respondents should be cognisant of the following protocols:

- a. Partnership Parties feel respected by all other parties and direct engagement and negotiation has occurred
- b. Conversations have a focus on providing solutions (potential solutions are provided with any criticism)
- c. Negotiations have an emphasis on policy substance over process form
- d. Parties resolve difficulties and misunderstandings in the spirit of cooperation, good faith and mutual trust
- e. There is a 'no surprises' principle – all ideas are socialised with officials prior to being raised at Partnership Working Group or Joint Council meetings
- f. Open communication – Parties can freely express ideas without prejudice, and can speak frankly without fear of reprisals
- g. Parties are provided with adequate time to consider issues and papers.

Partnership Agreement Purpose

At the time the agreement was signed, it was hailed as an historic step forward in the relationship between Aboriginal and Torres Strait Islander peoples and governments, a new way of doing business. The Prime Minister said, "In order to effect real change, governments must work collaboratively and in genuine, formal partnership with Aboriginal and Torres Strait Islander peoples because they are the essential agents of change."

Governments committed to ensuring, "that the finalisation of targets and implementation of the [new National Agreement] occurs through a genuine, formal partnership between the Commonwealth, state and territory governments and Indigenous Australians through their elected representatives" (clause 1).

Governments further noted that the "formal partnership must be based on mutual respect between parties and an acceptance that direct engagement and negotiation is the preferred pathway to productive and effective outcomes" (clause 2).

A Health Check of the Partnership Agreement is to be held annually against success indicators agreed by the Parties (clause 33). A Risk register will also be jointly developed and reviewed at the annual Partnership Agreement Health Check (clause 34).

Partnership Objectives

The stated objectives (paraphrased) of the Partnership Agreement are to: enhance outcomes for Aboriginal and Torres Strait Islander people by ensuring their full involvement; share ownership of, and responsibility for, a new National Agreement;

enhance credibility and support for the strategy by ensuring full participation; and advance involvement, engagement and autonomy through equitable participation, shared authority and decision making.

The following question asks you to rate your Association's overall level of agreement with the success of the Partnership Agreement after 15 months of its operation.

1. Does your Association agree or disagree with the following statement?

The Partnership Agreement is fulfilling its purpose of facilitating a better way of working between governments and Aboriginal and Torres Strait Islander people.

Agree
Neither Agree nor Disagree
Disagree

2. Please provide reasons for your choice

<Please key in your response here>

Governance Arrangements

To give effect to this new way of working together, governance structures were designed to ensure equal participation and shared decision making. This was in recognition of the overwhelming power and resources of the majority government parties against the minority voice of the Coalition of Peaks; an attempt to resolve the inherent structural imbalance.

The Coalition of Peaks and the Commonwealth, state and territory governments and the ALGA are represented on the Joint Ministerial Council and the Partnership Working Group. The Commonwealth's NIAA hosts the secretariat for both forums. The Commonwealth's Minister and Senior Official are the Co-Chairs with the Lead Coordinator of the Coalition of Peaks of the Joint Council and PWG respectively.

The following questions are intended to seek your Association's views as to the effectiveness of these governance arrangements.

3. Does your Association agree or disagree with the following statement?

Working arrangements to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander people are in place and effective.

Agree
Neither Agree nor Disagree
Disagree

4. What working arrangements are in place to address the power imbalances in the relationship between governments and Aboriginal and Torres Strait Islander people?

<Please key in your response here>

5. How can the working arrangements be strengthened?

<Please key in your response here>

6. Does your Association agree or disagree with the following statement?

The structures established under the Partnership Agreement are working to give effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination.

Agree
Neither Agree nor Disagree
Disagree

7. How is your Association giving effect to the principles of equal participation, shared decision making and Aboriginal and Torres Strait Islander self-determination? Please address each one in turn.

<Please key in your response here>

8. Does your Association agree or disagree with the following statement?

The Government Parties, collectively and individually, are listening to and taking account of the views of the Coalition of Peaks.

Agree
Neither Agree nor Disagree
Disagree

9. How is this demonstrated?

<Please key in your response here>

Partnership Principles

Each of the Partnership Principles elaborated in the Partnership Agreement is paraphrased below (in bold). Your views are sought on whether they are being observed and adhered to.

The following questions are intended to seek your views on the effectiveness of these Partnership Principles in practice.

The new National Agreement is the overarching policy that will inform all Parties' actions for the next 10 years.

10. Does your Association agree or disagree with the following statement?

The Parties have accepted that the new National Agreement is the overarching policy that will inform all Parties' actions for the next ten years.

Agree
Neither Agree nor Disagree
Disagree

11. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

The Coalition of Peaks represents an unparalleled network through which Aboriginal and Torres Strait Islander communities can engage governments.

12. Does your Association agree or disagree with the following statement?

The Coalition of Peaks is accountable to its member organisations which are directly accountable to their communities and represents an appropriate and legitimate network for engaging with Aboriginal and Torres Strait Islander Peoples.

Agree
Neither Agree nor Disagree
Disagree

13. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

14. What more should be done by Government Parties to demonstrate their commitment?

<Please key in your response here>

The diverse range of existing and emerging approaches to shared decision making and self-determination may enhance the Partnership Agreement. The importance of both national and local priority-setting and local service delivery is recognised.

15. Does your Association agree or disagree with the following statement?

Existing and emerging approaches to shared decision making and self-determination and local priority-setting and service delivery are being provided for and encouraged.

Agree
Neither Agree nor Disagree
Disagree

16. How is your Association demonstrating its commitment to encouraging and supporting existing and emerging approaches to shared decision making and

Aboriginal and Torres Strait Islander self-determination, particularly at the regional and local levels?

<Please key in your response here>

Commitment to open and transparent negotiation and shared decision making when Parties are making decisions.

17. Does your Association agree or disagree with the following statement?

Parties are demonstrating their commitment to open and transparent negotiations and shared decision making.

Agree
Neither Agree nor Disagree
Disagree

18. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Shared decision making by consensus.

19. Does your Association agree or disagree with the following statement?

Decisions under the Partnership Agreement are being made by consensus.

Agree
Neither Agree nor Disagree
Disagree

20. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Aboriginal and Torres Strait Islander peoples are the key agents of change in Closing the Gap and must be granted agency in the development and implementation of policies and programs which impact their lives.

21. Does your Association agree or disagree with the following statement?

Arrangements are in place or proposed to develop and strengthen the agency of Aboriginal and Torres Strait Islander people in the development and implementation of programs which impact their lives.

Agree
Neither Agree nor Disagree
Disagree

22. What are these arrangements? How can they be improved?

<Please key in your response here>

Equal participation in the Partnership Agreement will be actively pursued by all Parties, identifying and addressing barriers to Aboriginal and Torres Strait Islander participation, including systemic and structural racism, discrimination and unconscious bias.

23. Does your Association agree or disagree with the following statement?

Barriers to equal participation (systemic and structural racism, discrimination and unconscious bias) are being identified and addressed.

Agree
Neither Agree nor Disagree
Disagree

24. How are they being addressed?

<Please key in your response here>

25. Are these arrangements working well? If not, how can they be improved?

<Please key in your response here>

Decisions are evidence based and underpinned by the transparent sharing of data and information.

26. Does your Association agree or disagree with the following statement?

Decisions made under the Partnership Agreement are based on evidence (empirical and lived experience).

Agree
Neither Agree nor Disagree
Disagree

27. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

28. Does your Association agree or disagree with the following statement?

Data and information collections are transparent and available for sharing between the partners.

Agree
Neither Agree nor Disagree
Disagree

29. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Support for Aboriginal and Torres Strait Islander Participation

The Parties to the Partnership Agreement agreed that the partnership can only be successful if both Parties have the resources needed to carry out their responsibilities under the Partnership Agreement effectively. The Government Parties, with the resources of government to call on have a distinct advantage over the Coalition of Peaks who are in a decidedly inferior financial position. For this reason, it was agreed that Coalition of Peaks should be provided with adequate and ongoing financial support in order to engage and negotiate as equal partners.

30. Does your Association agree or disagree with the following statement?

Government Parties are providing adequate funding for the Coalition of Peaks to undertake its responsibilities effectively.

Agree
Neither Agree nor Disagree
Disagree

31. Reason/s for your answer (if you think improvement is needed, please provide suggestions):

<Please key in your response here>

Partnership Responsibilities

All Parties to the National Partnership are jointly responsible for agreeing the design, policy principles and priorities, implementation principles, oversight and monitoring the new National Agreement 2019-2029 and reviewing the NIRA (2009-2019).

Governments are responsible for providing funding for the National Agreement and continuing mainstream services; building their capacity to engage Aboriginal and Torres Strait Islander people; and implementing the National Agreement consistent with the Partnership Agreement principles and in line with the agreed implementation principles (in the National Agreement).

The following questions are intended to seek your Association's views on the whether the Coalition of Peaks and governments are effectively undertaking their responsibilities under the National Partnership.

32. Does your Association agree or disagree with the following statement?

Arrangements are in place in your jurisdiction to effectively undertake your Association's responsibility to build its own

capacity to engage Aboriginal and Torres Strait Islander people.

Agree

Neither Agree nor Disagree

Disagree

33. What specific reforms have been put in place, or are proposed, to build the capacity of your Association to engage Aboriginal and Torres Strait Islander people, particularly at the regional and local levels?

<Please key in your response here>

Partnership Risks

34. What does your Association consider are the major risks to the successful operation of the Partnership Agreement?

<Please key in your response here>

35. How should they be mitigated?

<Please key in your response here>

Other Matters

36. Are there any other matters not considered above that your Association would like to comment on in this Health Check?

<Please key in your response here>

