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Australian Capital Territory

Standing Committee on Public
Accounts and Administration

Submission Cover Sheet

Inquiry into Public Sector (Closing the Gap) Legislation Amendment Bill 2025

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Standing Committee on Public Accounts and Administration
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

LACommitteePAA@parliament.act.gov.au

**To the Chair and Members of the Committee, re your Inquiry into Public Sector
(Closing the Gap) Amendment Bill 2025**

In 2020 the ACT Government signed the National Agreement on Closing the Gap with the Commonwealth Government, all other state and territory jurisdictions and the Local Government Association, as well as the Coalition of Peaks, of which ACT ATSIEB is a member. That agreement included four priority reforms and 17 targets. The four priority reforms at the heart of the Agreement are:

Priority Reform 1 – Formal partnerships and shared decision-making.

Priority Reform 2 – Building the community-controlled sector.

Priority Reform 3 – Transforming government organisations.

Priority Reform 4 - Shared access to data and information at a regional level.

This submission argues that Closing the Gap (CtG) should be a major priority for the ACT Government in partnership with First Nations people because the Productivity Commission dashboard on governments' progress on these targets indicates that the ACT still has a long way to go on many of the targets, and certainly on the priority reforms. We believe that legislating the responsibilities and accountabilities for implementing this Agreement would help to focus the attention of ACT government officials on the actions they need to take to achieve these goals.

Background

Whilst the ACT prides itself on being a progressive jurisdiction, this is not the case in relation to First Nation issues. The gap between First Nations and other residents of the ACT remains very significant, and in the last year progress was only made on 9 of the 17 targets, with 6 having no data. It is notable that in the ACT there is no land rights legislation and there has been no successfully determined claim of native title (target 15 is to increase land and water to First Nations people). Two areas are particularly concerning as they went backwards: Overcrowded housing and youth in detention. Adult incarceration rates and rates of children in out of home care are also extremely high. Worryingly, ACT is well below the national average on the proportion of children who are on track on the Australian Early Development Census. The ACT government is well aware of these uncomfortable facts, but seems to continue business as usual.

The recently published *Jumbunna Institute Report on the Overrepresentation of First Nations People in the ACT Criminal Justice System* digs deeply into the problems in a range of Directorates that drive these high rates of imprisonment. As yet there has been no response from the ACT Government, but the Report's recommendations require very many transformative actions if the high rates of incarceration are to be reduced.

So there is no doubt in our experience over many years working in solidarity with the First Nations Community of the ACT that the Closing the Gap Bill is necessary. Business as usual is not going to get these gaps closed and the legislation is simply in line with requirements of the Closing the Gap National Agreement which the ACT Government signed five years ago.

The [Closing the Gap Bill](#) in summary:

1. Requires all government officials to implement the Closing the Gap principles in their work, including by developing their cultural capability, promoting cultural safety, and eliminating institutional racism; and
2. Requires all government agencies to report annually on the concrete steps they've taken to follow through on their Closing the Gap commitments, and to do so in a format agreed to by our local Aboriginal and Torres Strait Islander Elected Body.

ANTAR ACT believes that legislating these requirements, which have already been agreed to as part of the Closing the Gap Agreement, is essential because after five years of this Agreement, three recent national reviews (see below) have found that reform is too slow and transforming government processes, improving accountability and changing ways of working into genuine partnership with the First Nations community is essential to achieving the goals. Making clear that this transformation is a requirement for all government officials, not an optional extra, or only for a few dedicated people

who try their best, is what this Bill makes clear. These reviews are more specifically supported by the ACT Auditor-General's Report (no 6) of 2023 on the implementation of the ATSIEB Agreement, which is an important part of the ACT Government's plan for Closing the Gaps. The ACT Auditor-General's report was highly critical of the governance arrangements for the government's ATSIEB Agreement, the poor monitoring of progress, inadequate reporting making it difficult to hold government to account, and failure to grasp the nature of, and change systems to support, genuine self-determination, among other things. Thus we understand that the systemic problems highlighted in the three national reviews referred to below undoubtedly reflect problems which are found in the ACT.

1. The Productivity Commission Review

In 2024 the Productivity Commission undertook its first *Review of the implementation of the Closing the Gap Agreement*. It found the following:

"The Productivity Commission's first review of the Agreement shows that governments are not adequately delivering on this commitment. Despite some pockets of good practice, progress in implementing the Agreement's Priority Reforms has, for the most part, been weak and reflects tweaks to, or actions overlayed onto, business-as-usual approaches. The disparate actions and ad hoc changes have not led to improvements that are noticeable and meaningful for Aboriginal and Torres Strait Islander people. This raises questions about whether governments have fully grasped the scale of change required to their systems, operations and ways of working to deliver the unprecedented shift they have committed to.

The Commission's overarching finding is that there has been no systematic approach to determining what strategies need to be implemented to disrupt business-as-usual governments. What is needed is a paradigm shift. Fundamental change is required, with actions based on a clear logic about how that change will be achieved. It is too easy to find examples of government decisions that contradict commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage and discrimination. This is particularly obvious in youth justice systems.

The Commission heard a clear message from Aboriginal and Torres Strait Islander people during the course of this review: persistent barriers to progressing the Agreement's Priority Reforms are the lack of power sharing needed for joint decision-making, and the failure of governments to acknowledge and act on the reality that Aboriginal and Torres Strait Islander people know what is best for their communities. Unless governments address the power imbalance in their systems, policies and ways of working, the Agreement risks becoming another broken promise to Aboriginal and Torres Strait Islander people."

It also found that:

- The commitment to shared decision-making is rarely achieved in practice
- Government policy doesn't reflect the value of the community-controlled sector
- Governments are not enabling Aboriginal and Torres Strait Islander-led data
- Accountability for delivering on the commitments in the Agreement is lacking
- The transformation of government organisations has barely begun.

In relation to the latter they stated: "The Agreement requires systemic and structural transformation of mainstream government agencies and institutions to ensure they are accountable for Closing the Gap and are culturally safe and responsive to the needs of Aboriginal and Torres Strait Islander people, including through the services they fund.

There is a stark absence of whole-of-government or whole-of-organisation strategies for driving and delivering transformation in line with Priority Reform 3. We are yet to identify a government organisation that has articulated a clear vision for what transformation looks like, adopted a strategy to achieve that vision, and tracked the impact of actions within the organisation (and in the services that it funds) toward that vision."

Their Recommendation 3: **Mainstream systems and culture need to be fundamentally rethought** is particularly relevant. They said:

" Governments have not fully grasped the scale of change required to their systems, culture, operations and ways of working to deliver the unprecedented shift they have committed to in the Agreement. Without this change, the objective of the Agreement – to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians – is unlikely to be achieved. A fundamental rethink of government systems and culture – in line with what Priority Reform 3 calls for – is required.

The Commission offered five actions to drive change, among them:

"• Government departments need to develop and execute a transformation strategy for their portfolio that sets out a clear theory of change, underpinned by an Aboriginal and Torres Strait Islander-led assessment of the department's historic and current institutional racism, unconscious bias and engagement practices, and by truth-telling to enable reconciliation and active, ongoing healing.

• Central agencies need to review and update funding and commissioning rules so that they explicitly incorporate accountability for funders to abide by the Priority Reforms when commissioning programs and services. ACCOs need to be at the negotiation table from the beginning, so that government funding decisions take full account of ACCOs expertise and knowledges on how best to meet community priorities, solve identified problems, and measure success. This must continue throughout contract lifecycles.

- *Governments also need to embed responsibility for improving cultural capability and relationships with Aboriginal and Torres Strait Islander people into the employment requirements, performance agreements and KPIs of public sector CEOs, executives and employees.” (our emphasis)*

The Report continued, noting particularly the last dot point which we have italicised as it is particularly relevant to the Closing the Gap Bill:

“Recommendation 4: Stronger accountability is needed to drive behaviour change

The Agreement provides for an independent mechanism that will drive accountability by supporting, monitoring and reporting on governments’ transformations. But there has been limited progress towards establishing a mechanism and most jurisdictions will not have one in place by the end of 2023 as agreed.

This is just one of the gaps in accountability that needs to be addressed.

The Commission is proposing four actions to strengthen accountability and drive behaviour change.

- Governments need to prioritise setting up an independent mechanism without further delay. It should have robust, legislated powers to independently examine progress on all aspects of the Agreement.
- Many of the actions that are needed to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people are not specified in the National Agreement on Closing the Gap – they are instead found in other intergovernmental Agreements (on topics such as schools, health, skills and housing). When those other agreements are revised or new agreements are developed, governments should ensure that they reflect their commitments under the National Agreement on Closing the Gap.
- Greater transparency is needed so that the Australian community can hold governments to account. Governments should publish the stocktakes, partnership agreements, transformation strategies and other documents that have been developed under the Agreement.
- *Governments should require every government organisation to include a statement in its annual report on the substantive activities it undertook to implement the Agreement’s Priority Reforms and the demonstrated outcomes of those activities.”*

2. 2025 Independent Aboriginal and Torres Strait Islander Led Review of the Closing the Gap Campaign

We also note that the 2025 Independent Aboriginal and Torres Strait Islander-Led Review of the Closing the Gap Campaign commissioned by the Commonwealth on

behalf of all signatories to the Agreement, supports the intent of this Closing the Gap Bill. It found the following in answer to their question **“How are Aboriginal and Torres Strait Islander communities and governments adapting to new ways of working under the National Agreement?”**

“ Governments are not substantively adapting to the new ways of working under the National Agreement and this constrains the ability of both Parties to achieve the changes intended by the Priority Reforms. Most Aboriginal and Torres Strait Islander people do not feel that the changes sought by the Priority Reforms are on track.

.....The efforts of Aboriginal and Torres Strait Islander community organisations are not being matched by governments at all levels. The lack of action on Priority Reform Three on government organisation transformation is hampering the creation of new ways of working, and unequal responsibility remains with the community-controlled sector. Ultimately this is all contributing to an undermining of the intent of the National Agreement and its implementation.

In answer to their question, **“ Is the National Agreement working in the way you anticipated? How well is it working? What changes, if any, should be made?”**, they found:

For the National Agreement to work effectively, there are several key areas where a shift in approach is needed. This includes in accountability, funding reform, self-determination and genuine partnership. Transforming governments requires the application of a cultural lens to policy and program development, including aligning jurisdictional policy decisions with the National Agreement and achieving cohesion between government levels through appropriate mechanisms.

Recommendation Two of the section, ‘Drive genuine transformation within governments through systemic and structural changes’ in this Report stated:

“Realising the transformational intent of the National Agreement requires sustained cultural and structural change across all levels of government. The following recommendations lay the groundwork for more effective, respectful and enduring implementation. *a) Embed systemic change into leadership contracts and KPIs. The commitments under the National Agreement must be reflected in the key performance indicators (KPIs) and employment contracts of departmental Secretaries and agency heads, and flow through to senior executives and relevant staff. Position descriptions and performance development plans should explicitly include responsibilities for progressing structural reform, upholding genuine partnership, and delivering the Priority Reforms. Without this, cultural change across the system cannot be sustained.* (our emphasis) Parties: Commonwealth Government, State/Territory Governments, Local Government.”

3. CLOSE THE GAP CAMPAIGN REPORT 2025: A report prepared by Lowitja Institute for the Close the Gap Campaign Alliance Group, March 2025 – Recommendations:

Finally the Closing the Gap campaign report 2025 reinforces the importance of adopting the Productivity Commission's recommendations and emphasises greater commitment to and accountability for implementing the Agreement, including greater transparency. It urges state and territory jurisdictions to renew their commitment to the agreement. The passing of the Closing the Gap Bill would be a clear signal in the ACT that there is a more determined commitment to achieve the goals of the National CtG Agreement.

National Agreement on Closing the Gap

"Implementation of the four Priority Reform Areas lacks consistent national coordination and is impeding progress to meet the objectives in the National Agreement. To ensure that governments are upholding their commitments to achieve progress across target areas, we call on the Australian Government to:

1. Implement, in full, the recommendations of the Productivity Commission's 2024 Closing the Gap Review.
2. Prioritise the full implementation of the four Priority Reform Areas in the National Agreement on Closing the Gap.
3. In collaboration with the Coalition of Peaks, establish an independent mechanism before the next Closing the Gap Review is undertaken.
4. By no later than December 2025, to increase accountability and transparency of government departments and agencies, the Australian government establish a human rights-based reporting framework, underpinned by the UNDRIP, that reports progress against the Priority Reform Areas and targets, to the independent mechanism.
5. Commit adequate resourcing for the implementation of the National Agreement to ensure that governments and the Coalition of Peaks have sufficient resources, capability and capacity to work effectively with Aboriginal and Torres Strait Islander organisations and communities to operationalise the National Agreement.
6. Invest in Aboriginal and Torres Strait Islander-led data development, including specific budget allocations to enable the establishment of Indigenous Data Governance (IDG) and Indigenous Data Sovereignty (IDS) in Priority Reform 4.
7. Adopt the National Anti-Racism Framework and implement in full its recommendations; and allocate appropriate level of funding to the Australian Human Rights Commission to develop, as a priority, an implementation plan specific to First Nations people's experiences of racism.

We call on **state and territory governments** to

8. *Reaffirm their commit to the National Agreement, its targets and Priority Reform Areas.*

9. *Ensure legislation and policy are consistent with the intent of the National Agreement and are consistent with human rights obligations. (our emphasis)*

10. Adopt a strengths-based approach to their implementation plans, to drive their commitment to strengthening and building structures that empower First Nations peoples to share decision-making authority with governments.”

Conclusions

Bearing all these reviews and recommendations in mind, it is clearly important for all government officials and agencies to be bound by the commitments made under the National Agreement , since no less than three independent reviews have emphasised that unless government transforms the way it works with First Nations People the CtG targets will simply not be met. This is shameful in the ACT, a small, wealthy jurisdiction which has a progressive population that expects these matters to be dealt with effectively.

Talk of transforming Government means transforming the systems and processes used by government officials at all levels, led from the top by leaders of Directorates and teams within them, who expect and enable such transformation to occur. Strong coordination is required across and within Directorates along with leadership which is culturally capable and anti-racist. This leadership must be able to work in equal and respectful partnership with, and adequately resource, First Nations people within their Directorates, and share decision-making in partnership with the community-controlled sector, which must also be adequately resourced.

Compliance with this legislation would mean that the National Agreement four priority reforms would be being implemented – and First Nations people would be not simply “consulted” but given shared decision-making roles in relation to matters that affect them if the Closing the Gap Reforms and Targets are to be met. It would require a significant training effort to develop the ACT public service’s cultural competence and to address institutional racism. Training in these areas would be needed and should be required of all ACT public servants interacting with First Nations people or policies affecting them. Some policies and procedures may need to change to enable this shared decision-making to occur. It would mean public servants and officials developing trust in the advice of First Nations people and learning how to genuinely share decision-making with them.

This is especially relevant in determining whether the ACT Government services and interactions are culturally safe. The National Agreement states that, “Only the Aboriginal

and Torres Strait Islander person who is recipient of a service or interaction can determine whether it is culturally safe.” If a First Nation person feels that their experience has been racist or culturally unsafe, then it has been for them. The ACT Human Rights Commission has experience dealing with complaints about whether services or interactions have been racist or culturally unsafe and it would be advisable for that Commission to be involved should there be any conflict arising because of this provision. This should ideally be tackled in a way that would educate and mediate, rather than in a highly legalistic way.

It will be very valuable for the ACT public, particularly the First Nations public in the ACT, to know what different Directorates have done or are doing towards the CtG targets and priority reforms by making these part of every Directorate’s Annual Report. Improved transparency and accountability to the public is critical. At present, the only real accountability comes through the Productivity Commission’s Dashboard, and sections in some Directorate Annual Reports about actions in relation to First Nations people, but these rarely tie the actions to their purpose in leading towards fulfilment of the Closing the Gap Agreement. That Agreement is signed with the ACT Government as a whole, not just one Directorate, and the whole Government needs to give it priority in attention, resourcing, and in its partnerships. Such reporting could also be extremely valuable for the ACT Government itself, to see what every Directorate is doing, help with coordination, and assess its overall strategy for Closing the Gaps. This includes the Treasury which needs to provide greater transparency of annual budget allocations towards Closing the Gap.

ANTAR ACT would welcome the opportunity to meet with your Committee should that be required.

Yours sincerely



Janet Hunt and Murray Brown on behalf of ANTAR ACT

