



26 April 2018

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Via web portal at: <https://closingthegaprefresh.pmc.gov.au/node/add/response>

Dear Professor Anderson

### Submission to the Refresh of Closing the Gap

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The National Native Title Council (NNTC) welcomes the opportunity to provide a contribution to the discussion around refreshing the Closing the Gap targets.

The National Native Title Council is the peak body of Native Title Representative Bodies (NTRBs), Native Title Service Providers (NTSPs) and more recently Traditional Owner Corporations, such as Prescribed Bodies Corporates and Traditional Owner Group Entities<sup>1</sup>. The objects of the National Native Title Council are, amongst other things, to provide a national voice for the Indigenous native title sector on matters of national significance affecting the native title rights of Aboriginal and Torres Strait Islander people. The NNTC was incorporated as a public company limited by guarantee under the *Corporations Act* in 2006.

#### Background

Inspired by the 2005 Social Justice Report from Social Justice Commissioner Tom Calma AO and calls from Indigenous Australians, in 2008 the governments of Australia committed to specific targets to reduce the inequality suffered by many Indigenous Australians. Those targets were:

- Close the gap in life expectancy by 2031;
- Halve the gap in mortality rates for Indigenous children under five by 2018;

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<sup>1</sup> Traditional Owner Corporations in this submission is used as a generic term to include a range of corporate structures under various State and Commonwealth legislation, including Prescribed Bodies Corporate and Registered Native Title Bodies Corporate under the *Native Title Act 1993* (Cth.) and Traditional Owner Group Entities under the *Traditional Owner Settlement Act 2010* (Vic) ("**Settlement Act**").

- 95 per cent of all Indigenous four year-olds enrolled in early childhood education by 2025 (this target was added in 2014);
- Close the gap between Indigenous and non-Indigenous school attendance by 2018;
- Halve the gap for Indigenous children in reading, writing and numeracy by 2018;
- Halve the gap for Indigenous Australians aged 20-24 in Year 12 or equivalent attainment by 2020; and,
- Halve the gap in employment outcomes between Indigenous and non-Indigenous Australians by 2018.

As is apparent, a number of these targets expire this year. Only one target (Year 12 attainment) is on track to be achieved. No target has been achieved. It is within this context that the Commonwealth Government is facilitating discussions within the Indigenous Community and elsewhere regarding a revision or “refresh” of the Close the Gap targets. In this current contribution to these discussions the NNTC seeks to briefly address three main issues. These are: identification of the symptomatic nature of the existing targets; suggestions regarding future target areas; and, comments regarding the structures which will enable effective collaboration between governments and Indigenous communities into the future.

### **The symptomatic nature of existing targets**

The existing targets are symptoms, not causes, of inequality. By way of example mortality rates higher than the national average are a manifestation (symptom) of an underlying cause. That cause can be multifaceted; smoking, poor nutrition, and limited access to primary health care could all be seen as causes of a mortality rate higher than the national average. However, in the NNTC’s view, the symptomatic nature of the existing targets is more fundamental than even this analysis suggests. A high smoking rate, poor nutrition and limited access to primary healthcare are themselves *symptoms* of communities that suffer disadvantage to a greater extent than the national average.

The notion can be illustrated by the following proposition: a prosperous community will not have mortality rates higher than the national average and will have (for example) good school attendance and high rates of employment. The underlying *cause* behind the failed targets is fundamental economic disadvantage.

This proposition is supported by extensive research. The aspects of the multiple disadvantage experienced by Indigenous Australia are correlated. That is for example, an Indigenous Australian who is **not** in the labour force is also more likely to have lower educational standards, poorer health status and less adequate accommodation than an Indigenous Australian who **is** in the labour force.<sup>2</sup>

Further, an increase in the level of economic activity undertaken by Indigenous Australians, in particular through Indigenous owned enterprises, should lead to an increase in the number of

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<sup>2</sup> Steering Committee for the Review of Government Service Provision (SCRGSP) 2014, *Overcoming Indigenous Disadvantage: Key Indicators 2014*, Productivity Commission, Canberra.

Indigenous Australians in the labour force<sup>3</sup> and consequentially a reduction in the social disadvantage suffered by Indigenous Australians.<sup>4</sup>

The proposition above should not though be taken to imply that a program focussed upon exclusively economic policies will of itself guarantee prosperity and a consequent reduction in multifaceted disadvantage. Other aspects demand consideration. To achieve economic prosperity it is necessary for a community to enjoy a positive and vibrant cultural life; one that instils in its members, particularly its younger members, the strength and resilience to believe that success is possible and to overcome challenges. The cultural dimension of the facilitation of economic achievement is especially important in remote Indigenous communities where connection to country and maintenance of cultural obligations that this encompasses are often the *raison d'être* for the community's ongoing existence.

Similarly, appreciation of the role of economic activity in reducing multifaceted disadvantage should not be emphasised to the exclusion of health related programs. For example chronic ear infection amongst children in remote communities will prevent effective education and subsequent economic participation. However, eliminating ear infections in children will not *of itself* eliminate Indigenous disadvantage.

Focus on symptomatic health related targets is often characterised as an issue of equal enjoyment of fundamental human rights. This proposition is of course irrefutable. It does not though adequately comprehend the full scope of human rights discourse. International Law of course recognises *inter alia* human rights to life and a healthy environment. However also recognised are human rights with regard to economic, social and cultural matters. Human rights discourse sees all these rights as equal and unalienable. This interconnectedness of between human rights and Indigenous peoples is captured in the UN Declaration of the Rights of Indigenous Peoples (which is generally recognised as a restatement of existing human rights in the particular context of Indigenous Peoples). Thus, Article 24.2 explicitly refers to "equal right to the enjoyment of the highest attainable standard of physical and mental health", (see also for example Article 1). However, throughout the Declaration are references to rights to the maintenance and development of Indigenous economic, social and cultural structures (see for example Articles 4, 5, 11 -15,20, 21, 23, 25, 26, 29, 31 and 33). The approach suggested in this submission accords with this more holistic understanding of the rights of Indigenous peoples than does a limited focus on symptomatic health-related targets.

In the view of the NNTC though, the existing Closing the Gap targets have facilitated an over-emphasis on symptomatic manifestation of Indigenous disadvantage and not the underlying causes of these symptoms.

## Future Targets

With this view in mind it is appropriate to make some comment on possible future target areas. It is **not** suggested that existing targets should be discontinued. Symptomatic they may be, the existing targets still provide some measure of the underlying community well-being. Although it should be

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<sup>3</sup> Altman, J 2001, 'Indigenous communities and business: three perspectives, 1998-2000', *CAEPR working paper No 9/2001*, Centre for Aboriginal Economic Policy Research, Australian National University, Canberra. Furneaux, C & Brown, K 2008, 'Australian Indigenous entrepreneurship: a capital-based view', *International Journal of Entrepreneurship and Innovation*, Vol 9, No 2, pp 133-144.

<sup>4</sup> Biddle, N 2011, 'Income, work and Indigenous livelihoods', Lecture 5, Measures of Indigenous Wellbeing and Their Determinants Across the Lifecourse, CAEPR Lecture Series, Australian National University, Canberra.

stated here that national targets can conceivably be achieved and yet this outcome can conceal considerable regional disparity. This suggests that even existing targets require measures that allow such regional disparities to be identified and addressed.

Rather than eliminating existing targets, additional targets that focus upon the economic well-being of communities should be considered. At present (as noted in the discussion paper) measures of economic outcomes are reduced to the single employment target. Many other measures of economic activity and measures of the development of the infrastructure to support economic activity are not included. Examples could include measures of government (and private sector) expenditure within a community that has been awarded to local suppliers or measures of Indigenous participation in regional domestic product. The NNTC would welcome participation in discussions to further develop these possibilities.

It should also be noted that many targets of this nature allow a focus on the achievements, and not the deficiencies, of Indigenous communities. In keeping with the comments earlier in this submission regarding the need to appreciate economic policies within a broader social and cultural context, additional targets that focussed upon these issues should be considered as well.

### **“Working with” Indigenous Communities**

The notion of “working with” Indigenous communities is a common feature of government rhetoric. Unfortunately though, the reality is that it is simply rhetoric with little foundation in practice. The idea of self-determination is based upon the belief that an Indigenous community will itself be best placed to design and deliver programs to advance that community. Existing government policy is not based on making self-determination a reality.

Even where a community is empowered to design and deliver programs, the programs in question will be limited to those that government (at whatever level) has allowed to proceed. In short current Indigenous program delivery is founded upon control by government. This situation has been the reality in Indigenous affairs for so long that it can be difficult for government to imagine other possibilities. They do however exist. The Empowered Communities reforms championed in regions across Indigenous Australia provide one example.

Reforms such as this do not imply that communities managing public resources to achieve a reduction in Indigenous disadvantage are not accountable to government for the achievement of objectives. Only that it is up to the community in question to determine how the task will be undertaken.

In the context of native title processes the prospect of comprehensive regional settlements of native title outcomes can provide an opportunity to establish and resource the structures necessary to facilitate this self-determining approach to achieve community prosperity and the associated reduction in disadvantage.

Of course not every community determined program will be successful. This fact raises two considerations. First, the time frames within which ‘success’ is determined need to be realistic and not dictated by electoral cycles. Second, a lack of immediate success should not be assumed to be a reflection of a failed structural approach. Government led approaches to Indigenous Affairs policy

has demonstrably failed for many decades and yet it is only now that Indigenous led approaches are being considered.

### **Conclusion**

The Closing the Gap Refresh discussions provide a significant opportunity to reconsider the national approach to Indigenous Affairs policy. It is an opportunity that must not be ignored. The NNTC is pleased to a part of these discussions and we trust the above comments contribute usefully to the current deliberations. [REDACTED]

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