KaielaInstitute

Closing the Gap Refresh 2018
Department of Prime Minister and Cabinet, Australian Government
Submission from the Kaiela Institute

This document represents the express views of the Kaiela Institute as submitted to the Commonwealth Government's Closing the Gap Refresh led by the Department of Prime Minister and Cabinet. Questions have been taken from the 'Share your views' page on the Closing the Gap Refresh website and uploaded to <https://closingthegaprefresh.pmc.gov.au/node/add/response>

The Kaiela Institute is the funded backbone organisation under the Commonwealth Government's Empowered Communities initiative and is Secretariat to the Algabonyah Community Cabinet. The Kaiela Institute resides on Yorta Yorta country, located in the Goulburn Murray region of Victoria.

Question 1: Do you have any general comments?

Irrespective of the merits or shortfalls of any individual policies or frameworks, it is the belief of the Kaiela Institute that the legislative and policy framework regarding the rights of Aboriginal and Torres Strait Islander people and the obligations of government at the Commonwealth, State and local level is unnecessarily complex. The solution to such complexity requires fundamental structural change that recognises the need for Aboriginal self-determination centred on a transfer of real power.

While the Australian Constitution empowers the Commonwealth Parliament to make laws regarding 'Aboriginal affairs,' there is no single overarching piece of legislation, which establishes or enshrines the rights of Aboriginal and Torres Strait Islander peoples, despite Australia being a signatory to the *United Nations (UN) Declaration on the Rights of Indigenous Peoples*.

The lack of overarching legislation underpinned by the articles contained within the UN Declaration creates several often-interlinked challenges:

- Co-ordination between the Commonwealth and State government at both the policy and legislative level is inconsistent, while coordination with local government is almost non-existent.

- Limited whole-of-government co-ordination creates overlap in the areas of economic development, education and health, causing confusion and a duplication of effort, requiring multiple relationships to be managed.

- Increasingly, the Kaiela Institute finds itself relying on individual relationships with key champions within bureaucracy to drive change for Aboriginal people in the Goulburn Murray region, rather than utilising policy and legislative frameworks intended to support Indigenous people.

A key illustration of the challenges listed above is the fact that Aboriginal Victorians are being forced to respond to and participate in two separate "*Closing the Gap*" 10 year reviews. Not only does this dual process place burden on already resource-constrained organisations such as the Kaiela Institute, but this also reveals a complete departure from COAG's original intent and a failure to maintain a whole of nation, bipartisan approach to this policy.

To address the above issues, there needs to be a shift in structural reforms that afford Aboriginal and Torres Strait Islander peoples' self-governance and give rise to a culturally safe country where

Aboriginal and Torres Strait Islander peoples' identity, heritage and culture is valued and recognised by all other Australians. Treaty, constitutional reform and / or other legislation or a mix of all three could be used to achieve genuine self-governance. Additionally, Australia should convert the *UN Declaration on the Rights of Indigenous Peoples* into domestic law to enshrine the rights of Australian Indigenous peoples and clearly articulate the obligations of government at *all levels*, including local government.

In the Goulburn Murray region, the Kaiela Institute continues to advocate for the Algabonyah Community Cabinet model of Aboriginal regional self-governance as a mechanism to empower Aboriginal people to set their own aspirations and priorities. This model centres on a rights-based approach that acknowledges Aboriginal people have a right to a quality of life consistent with that of pre-colonisation. The model recognises that in order to achieve this goal, the entire region must be accountable for investing into the economic growth and prosperity of Aboriginal people. The consequent positive gains for Aboriginal people in cultural affirmation, identify and socio-economic outcomes translate into a broad gain that the entire community, both Aboriginal and non-Aboriginal can benefit from.

Question 2: What does Closing the Gap mean to you?

The current *Closing the Gap* approach by government is not centred on a rights-based model, but rather, is an example of policy being made *for* rather than *with or by* Aboriginal people. This has contributed to a decade of crisis intervention-focused policies and programs that contribute to negative stereotypes driven by western concepts of wellbeing. Such policies perpetuate survivalist behaviour within Aboriginal communities and distract from activities that seek to affirm culture, build collective aspiration and community confidence.

The structure and institutions around *Closing the Gap* place the onus to improve on Aboriginal communities themselves, rather than creating an obligation for mainstream society to invest in the development of prosperous Aboriginal communities that are culturally strong and valued by the dominant culture. For example, none of the *Closing the Gap* targets provide an indication of mainstream society's contribution or investment into building the wealth and wellbeing of Aboriginal communities.

While Kaiela Institute recognises there is still a need for some intervention programs that may align with some of the *Closing the Gap* targets, these must be offset by concurrent investment into the development of cultural awareness within mainstream Australia to truly 'close the gap'. Such investment must go to the core of the underlying factors that have contributed to the gap in the first instance. This includes addressing bureaucratic and institutional racism to reaffirm the perceived value of Aboriginal knowledge in mainstream society.

The building of cultural awareness within our populations, institutions and government structures requires investment in a regional approach that sees on-ground respectful collaboration between Aboriginal and non-Aboriginal populations. Therefore, as a policy framework, *Closing the Gap* needs refocusing to recognise the different lived experience of Aboriginal and Torres Strait Islander people living in urban, regional and remote communities. This requires clear obligations to be placed on all levels of government, including local governments, who can drive regional accountability in building Aboriginal prosperity and wellbeing. Recognising that *Closing the Gap* started as a bipartisan COAG policy with support from across the country, it is critical that a truly bipartisan approach is reinvigorated, with clear delegation of roles, outcomes and responsibilities to all parties involved.

Question 3: How can governments, Aboriginal and Torres Strait Islander people, and businesses work more effectively together?

- **What is needed to change the relationship between government and community?**
- **To help close the gap, what is needed to support Indigenous community leadership and decision-making?**

Effectively working together requires a shake-up of Government's approach to creating meaningful relationships with Aboriginal and Torres Strait islander people. All levels of government must build trust, listen and share or cede governance of some or all elements of 'Aboriginal Affairs' to Aboriginal and Torres Strait Islanders. This last point is particularly critical and consistent with the Kaiela Institute's proposal for a regional governance model led by the community-appointed Algabonyah Community Cabinet. Under this model, it is proposed that social, educational, economic, cultural, wellbeing and other priorities be nominated by the Aboriginal community, with accompanying strategies for achieving such priorities also set by community, with collaboration from mainstream government and institutions as considered necessary and appropriate. Such a model creates joint, region-wide accountability for investment into and attainment of goals and priorities.

Effectively working together also requires a systematic and holistic approach to be taken by government, alongside a concurrent change in the 'architecture' of government to reduce silos and reinvigorate a national approach. There is a critical need for alignment between the three levels of government to avoid fragmented approaches to policy, strategy and funding. Aboriginal and Torres Strait Islander people get caught in the bureaucratic quagmire and the net effect is a form of bureaucratic racism.

Working holistically also means identifying a clearer role for local government in building economic prosperity and promoting the value of Indigenous knowledge, culture and tradition at the community level. This would reduce regional complacency by creating a mandate for meaningful action and increase the accountability of local government to drive economic progress that is both inclusive and culturally affirming.

Finally, Government must seek to rebuild trust with Aboriginal and Torres Strait Islander people in a respectful, culturally appropriate way. The trust between Aboriginal and Torres Strait Islander people and the current Commonwealth Government has been eroded by a number of actions. They include significantly reducing the budget for Aboriginal Affairs, reducing investment in Aboriginal-led initiatives and rejecting Aboriginal and Torres Strait Islander-led suggestions for appropriate recognition and reconciliation such as the *Uluru Statement.* Nonetheless, trust could be re-established in a variety of ways, all of which would assist with reducing the 'Gap' between Indigenous and non-Indigenous Australians. Underpinning the below suggestions is the premise that government must pursue an agenda of self-determination to truly build effective working relationships. Suggestions include:

1. Engage in a genuine bipartisan conversation about empowerment of Aboriginal and Torres Strait Islander peoples.

2. Invest and facilitate the means for Aboriginal and Torres Strait Islanders to establish locally and culturally appropriate means of self-governance.

3. Enshrine any changes in law rather than policy to ensure longevity.

4. Invest in capacity building of emerging Aboriginal and Torres Strait Islander leaders.

5. Invest in the economic prosperity of Aboriginal and Torres Strait Islander peoples.

6. Clarify which level of government (Commonwealth or State) is responsible for delivering particular initiatives, reduce duplication and be transparent.

7. Identify which Minister is responsible and accountable for delivering each target (when, where and how).

8. Ensure genuine co-design of the targets, measures and solutions to "Close the Gap" with Aboriginal and Torres Strait Islander people.

9. Make it easier to deal with government by making information about all grants and other funding opportunities available in a single place.

Question 4: How could Closing the Gaps Targets better measure what is working and what is not?

- **What has worked well under Closing the Gap?**
- **What has not?**

Government needs to change its focus and rise to more strategic questions that focus on solving the cause rather than continuing to narrow in on the symptoms of disparity between Indigenous and non-Indigenous communities. Government continues to focus attention on intervention-based policies, implicit by the current targets' focus on health and life expectancy outcomes, rather than promoting investment into critical programs, activities and infrastructure that culturally affirms and sustains the identity of Aboriginal people.

Whilst the targets are useful as one (amongst many) possible measures of progress, they do not address the fundamental question of *how can sustainable, lasting change be implemented for Aboriginal and Torres Strait Islander people*? As a nation, Australia must recognise the right of Aboriginal and Torres Strait Islander people to a quality of life that meets, if not exceeds, that of pre-invasion and work towards achieving this. Many different solutions have been put forward by Indigenous nations across the world, as well as by Aboriginal and Torres Strait Islander peoples (e.g. *Uluru Statement* and Treaty). One important theme that emerges repeatedly is that self-determination, in particular self-governance, is fundamental to improving the health, wellbeing and social outcomes for Indigenous peoples across the world (see Behrendt, L, Jorgensen, M and Vivian, A, "*Self-Determination: Background Concepts*." Scoping paper 1 prepared for the Victorian Department of Health and Human Services).

In addition to promoting self-governance, government-set targets, and the data used to measure progress must too be decolonised. Information has continued to be collected about Aboriginal and Torres Strait Islander people but often holds little relevance to their lives. Any targets decided upon must be co-designed with Aboriginal and Torres Strait Islander peoples without a pre-ordained agenda. Further, they must be approached in a bipartisan manner, starting with the Australian Parliament and the States and Territories and local government. Any targets must focus on empowerment and building capability within Aboriginal communities. Indeed, innovation should be adopted in setting targets. For example, targets could even be created that measure the performance of the dominant culture and mainstream institutions on how successful they have been in ceding control to empower Indigenous people. Nonetheless, this should not be at the expense of continuing to provide much needed services while capability and prosperity is built. At page 45 of the Behrendt *et al* (2016) paper referred to above, there are examples of some alternative questions that are about building capability, increasing participation by the community and engagement. The starting point is facilitating "self-determination" for Aboriginal Victorians. The Commonwealth needs to consider taking a similar approach.

Question 5: What indicators should governments focus on to best support the needs and aspirations of Aboriginal and Torres Strait Islander peoples?

- **Should governments focus on indicators such as prosperity, wellbeing or other areas?**
- **What do you think are the most important issues for Aboriginal and Torres Strait Islander Australians, families and communities? Why?**

As noted in relation to the previous question, the questions posed here also focus on remedying the symptoms rather than addressing the causes of comparative disadvantage experienced by Aboriginal and Torres Strait Islander people. Instead, government at all levels should look to making structural reforms that affirm (or even celebrate) the culture and identity of Aboriginal and Torres Strait Islander peoples. This would have the flow-on impact of building aspiration and confidence and thus improve the socio-economic engagement of Aboriginal people, while providing a strong foundational identity. There is a critical need to change the mindset of governments, so that they invest in regional development, capability-building within community and economic prosperity. This approach would include wellbeing and self-determination, rather than simply responding to services and responding to crises. Government needs to do both to "*Close the Gap*".

Structural reform is necessary to provide constitutional recognition and set Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians on a path to self-determination and genuine self-governance. Self-governance cannot be tokenistic or be a transfer of the difficult decisions of government to community without also taking steps to protect identity, culture and facilitate prosperity.

Finally, a one-sized-fits-all approach does not work. In whatever the Government does next it should be looking to how it might build a model where the varying needs and perspectives of urban, semi-urban, regional and remote Indigenous communities, as determined by those communities, shapes the response in each region. One example is the Empowered Communities initiative where regions across Australia are trialling different forms of self-governance. In the Goulburn Murray, one of the nine sites where this initiative is being implemented, the Algabonyah Community Cabinet has been established (and will continue to be reviewed following community consultation in 2018) as a community-led, self-governing structure which promotes transparency and accountability in decision-making.

Question 6: Should Aboriginal and Torres Strait Islander culture be incorporated in the Closing the Gap framework? How?

Any action taken by government should have affirming Aboriginal and Torres Strait Islander identity and culture as its primary objective. Anything less than that runs the risk of perpetuating disempowerment and disadvantage. It would also mean that Australia is not meeting its obligations under the *UN Declaration on the Rights of Indigenous Peoples*.

In attempting to incorporate culture, consideration must be given to the nuance of history and place. Government policy, particularly at a Commonwealth level, continues to brand all Indigenous people with the one label. This has contributed to a situation whereby targets, policies and programs continue to be funded with a 'remote Australia' focus, with limited funding made available for implementation of program, policies and targets in South Eastern Australia. Arbitrary setting of targets at a national-level not only lacks any meaningful incorporation of culture, but also fails to take into account the different challenges and opportunities that come with living in urban, regional or remote communities. Further, it undermines a bipartisan approach, as has been seen here in Victoria, where the State Government established its own targets to compensate for inadequacies at the Commonwealth level. To be meaningful at the population / regional level, targets must be place-based and incorporate local cultural nuances.

Finally, incorporating culture, while evidently requiring consultation, also requires a rethink of traditional metrics. Proxy measures of cultural identity, language, pride, heritage and resilience must

be developed with communities to give a truly holistic picture of how Aboriginal and Torres Strait Islander communities are tracking in terms of preservation of culture and identity.

Question 7: What do you think are the key targets or commitments that should be measured in a refreshed Closing the Gap agenda?

- *What resources, including data or information, are needed to help communities and develop and drive local action?*

New targets need to rethink traditional government metrics and look to create innovative ways of measuring progress within Indigenous communities that resonate with those communities. For example, instead of just measuring life expectancy, complimentary measures should be created around growth in aspiration, community participation and other indicators of social health and wellbeing. Considering indicators not in siloes but as a dataset paints a more accurate picture of Aboriginal and Torres Strait Islander communities and enables easier attribution of results.

New, meaningful measures and targets can only be achieved with investment in Indigenous communities to build capability in the collection, management and interpretation of their own data, ensuring data sovereignty for Aboriginal and Torres Strait Islander peoples. In the Goulburn Murray region, funding was made available to create a Community Scorecard which tracks progress across a series of themes using quantitative and qualitative indicators that are intended to resonate with the local Aboriginal community. Such investment into data sovereignty is critical to ensuring data is owned, created and delivered by Aboriginal and Torres Strait Islander people.

Indigenous communities need to be empowered to both define what is important to measure and lead the process to monitor and evaluate progress. However, such an approach requires ongoing sustained investment to enable outcomes to truly be ascertained and attributed back to activity funding. Anything less creates stagnant performance reports that are neither comparable nor useful. Funding for region-based data units would assist with empowering Aboriginal and Torres Strait Islander people and government to make evidence based decisions using data that is mutually trusted by both community and government.

Finally, assistance with communications to gather evidence on the needs, priorities and aspirations of communities and then support the feedback of resultant outcomes and progress against community-elected measures is important. Systematic communications that deliver information between communities and governing institutions in a format that is relevant and tailored to diverse Indigenous populations is necessary to build trust and confidence in systems of governance. This holds true for where communities may be pursuing self-determination and governance, and for relationships between Indigenous communities and local, state and Commonwealth governments.