

20 June 2025

Mr Ryan Batchelor
Chair
Legislative Council Environment and Planning Committee
Parliament House
Spring Street
EAST MELBOURNE VIC 3002
Via email: epc.council@parliament.vic.gov.au

Dear Mr Batchelor,

We write to you as the Victorian Government's implementation partner and shared-decision making body under the National Agreement on Closing the Gap (National Agreement) in your capacity as the Chair of the Legislative Council Environment and Planning Committee.

We represent the interests and the expertise of the Aboriginal community-controlled sector and are committed to Closing the Gap through self-determined solutions that promote culture, connection and Community and supporting all Aboriginal people to be proud, strong and thriving.

Please find enclosed a written submission for your Inquiry into Community Consultation Practices. Our submission makes several recommendations for your consideration relating to the National Agreement on Closing the Gap. We thank you for the opportunity to provide input into this inquiry, and the flexibility you have given us as we coordinate this response with our members.

If you have any questions, or wish to discuss the submission in further detail, please contact Emily Hocking, Manager, Strategic Policy and Reform at emily.hocking@vahs.org.au.

We wish to thank you again for this opportunity to provide input into your inquiry.

Yours sincerely



Emily Hocking
Manager, Strategic Policy and Reform
Ngaweeyan Maar-oo

Encl: Ngaweeyan Maar-oo written submission



**NGAWEYAN
MAAR-OO**
Closing The Gap Partnership Forum

Inquiry into Community Consultation Practices

June 2025

We proudly acknowledge Victoria's Aboriginal communities and their rich culture and pay respect to their Elders past and present.

We acknowledge Aboriginal people as Australia's first peoples and custodians of the land and water on which we live.

We recognise and value the ongoing contributions of Aboriginal communities to Victorian life and how this enriches us.

We embrace the spirit of reconciliation, working towards a better quality of outcomes and ensuring an equal voice.

We recognise the diversity of Aboriginal people living throughout Victoria. While the terms 'Koorie' or 'Koori' are used to describe Aboriginal people of southeast Australia, we have used the term 'Aboriginal' to include all people of Aboriginal and Torres Strait Islander descent who are living in Victoria.

To receive this publication in an accessible format, please contact the secretariat <secretariat@ngaweeyanmaar-oo.org.au>.

Authorised and published by Ngaweeyan Maar-oo in partnership with the Gap Partnership Forum.

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In this document, 'Aboriginal' refers to both Aboriginal and Torres Strait Islander peoples. 'Koorie' or 'Koori' is retained when part of the title of a report, program



About Ngaweeyan Maar-oo

Ngaweeyan Maar-oo, meaning “Voice of the Community”, is the national Aboriginal community-controlled organisation that is the Commonwealth Government’s implementation partner and the national peak body for the National Agreement on Closing the Gap (National Agreement).

We are also a member of the Coalition of Aboriginal Community-Controlled Organisations (ACCOS), a national partner with the Commonwealth Government, comprised of over 80 Aboriginal community-controlled peak and member organisations across Australia, together with 1000 individual organisations.

Our membership is made up of 13 Aboriginal community-controlled organisations (ACCOS) and 9 Aboriginal Government representatives. The membership has extensive expertise, cultural knowledge and experience, informed by their longstanding commitment to the Aboriginal community.

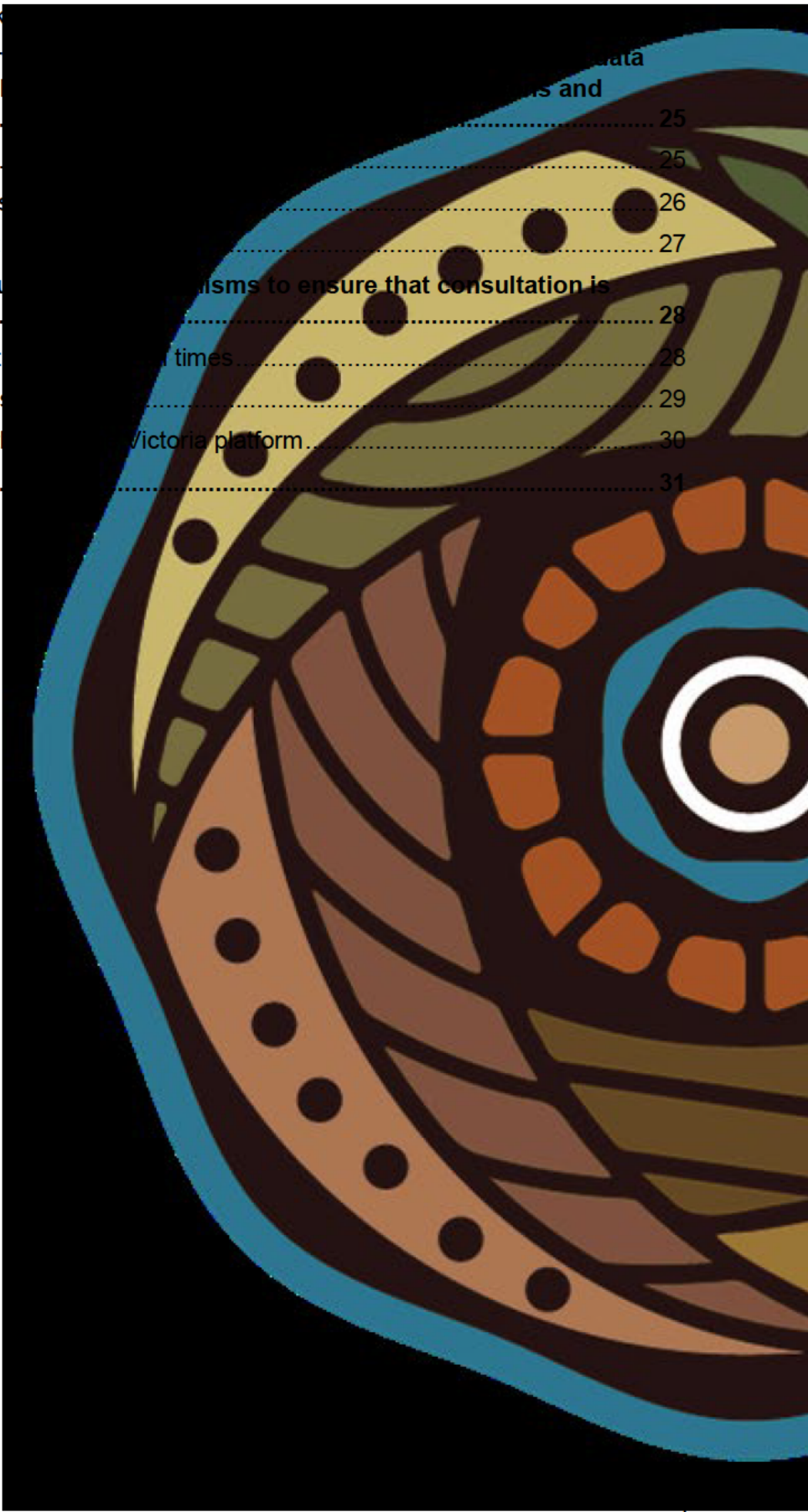


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Executive Summary

Too often, governments do not meaningfully engage with the communities or organisations, particularly on policies and programs that are intended to listen to and act upon what Community is advocating. Many government programs continue to let down Aboriginal people. The evidence shows that programs improving outcomes for Aboriginal people are most successful when they are designed and led by their expertise.

Historic policies and interventions, such as forced removal, disruption of culture and dispossession of land have caused intergenerational trauma and contributed heavily to long lasting inequities in health, social and emotional wellbeing and life expectancy outcomes.¹ Despite efforts to erase Aboriginal culture, language and identity, Aboriginal people and communities have continued to fight for their right to self-determination. The Victorian Government's commitment to Treaty is a welcomed step towards self-determination, but it does not alleviate the Victorian Government of its obligations to Aboriginal people as citizens. The Victorian Government includes its obligations under the National Agreement on Closing the Gap (National Agreement), to which Victoria is a signatory.

We echo the Productivity Commission's call for governments to fully implement their commitment to the National Agreement, which are essential for driving long-term, systemic improvements.²

The National Agreement requires governments to engage fully and transparently, in a way that enables Aboriginal people to lead the design and conduct of engagements, and to understand how feedback has been considered in government decisions (clause 59(f)). It includes four priority reform areas and seventeen socio-economic areas of focus. The priority reforms set out the structural and systemic reform that is required to close the gap. These are:

- Formal partnerships and shared decision-making
- Building the Community-Controlled Sector
- Transforming government organisations
- Shared access to data and information at a regional level

All of these priority reforms are relevant when considering how the Victorian Government undertakes consultation and engagement with Aboriginal communities and cultural authorities.

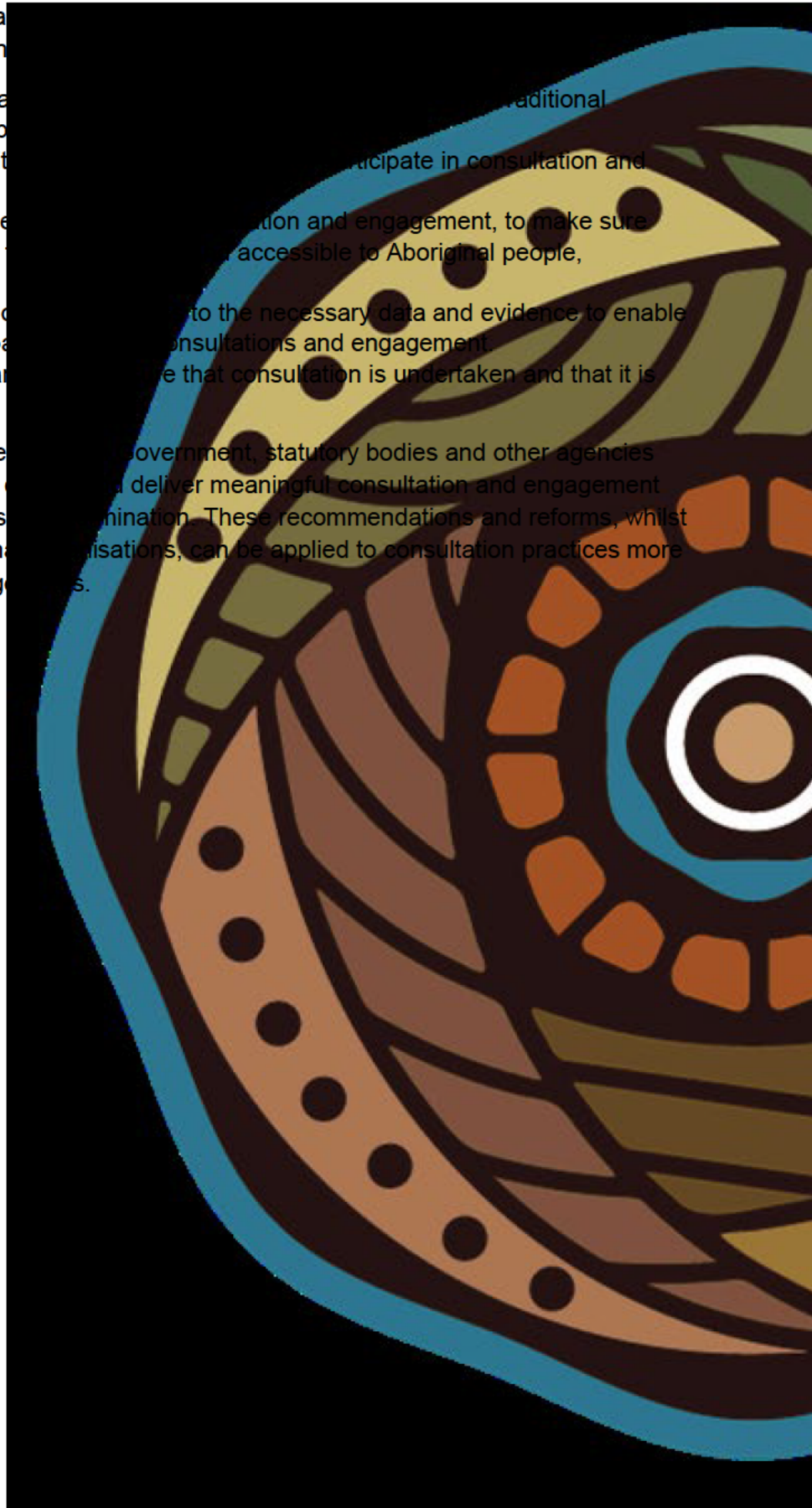
¹ Australian Institute of Health and Welfare (AIHW). (2022). Closing the gap targets: key findings and implications. Retrieved on 5 June 2025 from <https://www.aihw.gov.au/reports/indigenous-australians/closing-the-gap-targets-key-findings-implications/contents/social-and-emotional-wellbeing>

² Productivity Commission (2024) *Productivity Gap, Study report, volume 1*, Canberra. Retrieved from <https://www.pc.gov.au/inquiries/completed/closing-the-gap/study-report.pdf>.

The Victorian Government can align its consultation and engagement policies, practices and partnerships with the priority reform areas of the *First Nations Agency Agreement*, by implementing the following:

1. Strengthen partnerships with local Aboriginal communities and Traditional Owners so that they are able to participate in consultation and engagement processes.
2. Support the Aboriginal Communities to participate in consultation and engagement processes.
3. Transform the way that government departments and agencies conduct consultation and engagement, to make sure that processes are culturally led, transparent and accessible to Aboriginal people, communities and organisations.
4. Ensure that Aboriginal organisations have access to the necessary data and evidence to enable them to be fully informed when participating in consultations and engagement.
5. Strengthen accountability mechanisms to ensure that consultation is undertaken and that it is meaningful.

These recommendations will support the Victorian Government, statutory bodies and other agencies (referred to as government agencies) to deliver meaningful consultation and engagement processes that work towards achieving social justice and reconciliation. These recommendations and reforms, whilst written from the perspectives of Aboriginal organisations, can be applied to consultation practices more broadly to improve outcomes and engagement.



Context

Victorian Government has several strategies for engaging with Aboriginal organisations and communities.

The National Agreement on Closing the Gap

The National Agreement on Closing the Gap states that ‘when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of services that affect them, better life outcomes are achieved’ (clause 12). The Agreement, to which Victoria is a signatory, commits government organisations to transform their engagement practices with Aboriginal and Torres Strait Islander people.

The National Agreement aims to overcome the entrenched inequality faced by Aboriginal people so that their life outcomes are equal to all Australians (clause 15).³ The Agreement, to which Victoria is a signatory, commits all Parties to work in partnership on policies that impact the lives of Aboriginal and Torres Strait Islander people, to listen to their voices and aspirations and change ways of working in response (clause 19).

Productivity Commission Review of the National Agreement on Closing the Gap

Clause 121 of the National Agreement requires that the Productivity Commission conduct a review of the National Agreement every three years. In February 2024, the Productivity Commission Review of the National Agreement on Closing the Gap (Productivity Commission Review) handed down the first of its reviews on the progress of implementation of the National Agreement. Throughout the Review, the Productivity Commission developed and adhered to an engagement approach that was made publicly available on its website.⁴ The approach aimed to “to facilitate shared decision-making in its Review to determine progress under the Agreement, including supporting self-determination through engagement” and was underpinned by a commitment to the following four key principles:

- fair and inclusive – a diversity of perspectives is supported and enabled, and all wanting to contribute and be heard have the opportunity to do so
- transparent and open – information is provided and decisions are made in a transparent and open manner, and it is possible to verify this has occurred
- ongoing – every stage of the Review is informed by engagement
- reciprocal – at a minimum, Aboriginal and Torres Strait Islander people and their representatives are provided feedback on how their input has been understood and informed decisions

These principles were complemented by specific engagement practices. In our view, these are the minimum standards to which all government organisations should hold themselves to when conducting consultation with Aboriginal people and communities.

³ Australian Government (2020). *National Agreement on Closing the Gap*. Canberra: Australian Government. Retrieved from <https://static1.squarespace.com/static/62eb670/National-Agreement-on-Closing-the-Gap>

⁴ Accessible at <https://www.pc.gov.au/inquiry>

Engagement principle	Engagement practice
Fair and inclusive	<p>Engage in a way that enables many viewpoints. Include people who may not often engage or be able to. In particular, supporting Aboriginal and Torres Strait Islander people impacted by the National Agreement (and their representatives).</p> <p>All who want to contribute have:</p> <ul style="list-style-type: none"> • access to the same information at the same time • fair and equitable chance to comment, with time and extra information (if needed) to understand the meaning of proposed decisions. <p>Seek advice from Aboriginal and Torres Strait Islander people and their representatives on engagement so it is culturally safe. Provide ways for Aboriginal and Torres Strait Islander people to engage that respect and support their unique cultural identities.</p>
Transparent and open	<p>Communicate decisions publicly. People who took part in the review or want to know about it can easily find and access information.</p> <p>Engagement feedback is also public and easy to access, including who provided the feedback (except in certain cases*).</p>
Ongoing	<p>Engagement approach is consistent and ongoing across all phases of the review. It supports shared decision-making from the planning to findings and recommendations.</p>
Reciprocal	<p>The public can access themes and key messages from feedback. People who took part in the review can find out how their feedback informed our decisions, and our reasons for decisions.</p> <p>At a minimum, give Aboriginal and Torres Strait Islander people and their representatives a response about their feedback and how it informed decisions.</p>

Table 1: Summary of Productivity Commission engagement principles and practices, taken from their engagement approach.⁵

The Productivity Commission's engagement approach is discussed further under our recommendations.

⁵ Productivity Commission 2022 *Review Paper*. Retrieved on 3 June 2025 from <<https://www.productivity.gov.au/first-engagement-summary>>.

Victorian Aboriginal Affairs Framework

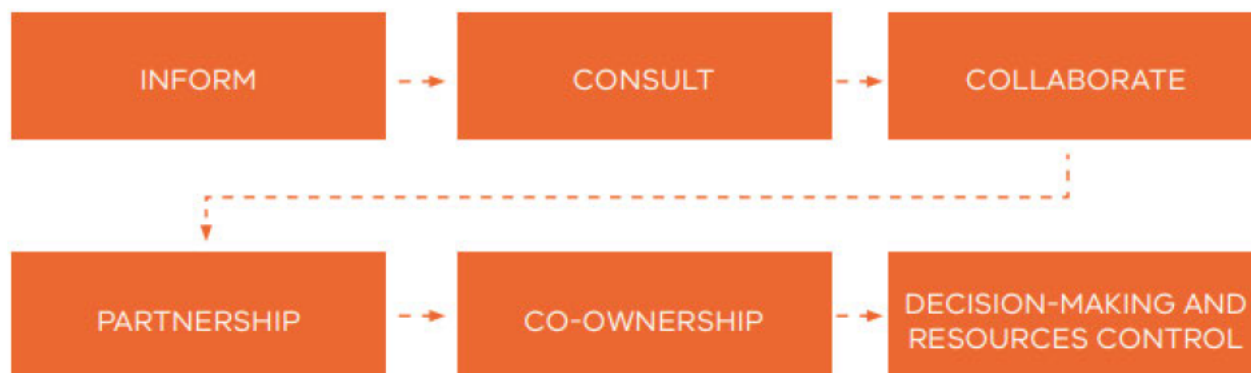
The Victorian Aboriginal Affairs Framework (VAAF) is a framework for working with Aboriginal Victorians to drive positive action and improve outcomes.⁶ The Victorian Government works through the Victorian Government Aboriginal Affairs Implementation Plan, the Victorian Closing the Gap, the Victorian Closing the Gap Implementation Plan 2025 (Implementation Plan) and the Self-Determination Reform Framework.

Within the VAAF, is a recognition by the Victorian Government that “Aboriginal self-determination involves more than consulting and partnering with Aboriginal Victorians on policies and programs that affect their lives”.⁷ The VAAF sets out a continuum to the internationally recognised best practice model of engagement - the International Association for Public Participation (IAP2). However, it goes a step further than empowerment, to ensure that the end goal is decision-making and resource control.

The VAAF contains 11 self-determination principles developed with Aboriginal Victorians. These principles are the minimum standards for how the Victorian Government works with Aboriginal people now and in the future, and underpin all public service actions towards self-determination.

Victorian Self-Determination Reform Framework

Continuum towards Aboriginal self-determination



The Self-Determination Reform Framework is part of the VAAF, guides public service action to enable self-determination in line with the government's commitments in the Victorian Aboriginal Affairs Framework.⁸ It includes accountability arrangements for the Victorian Government so that it can monitor departmental progress on actions towards self-determination.

⁶ State of Victoria (2018) *Victorian Aboriginal Affairs Framework* Retrieved 6 June 2025 from https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2025-06/Victorian-Aboriginal-Affairs-Framework_1.pdf.

⁷ Victorian Government (2019) *Victorian Government Aboriginal Affairs Framework* Retrieved 6 June 2025 from <https://www.firstpeoplesrelations.vic.gov.au/sites/default/files/2025-06/Victorian-Aboriginal-Affairs-Framework-August-2019.PDF>.

⁸ Ibid.

DELWP Aboriginal Self-Determination Reform Strategy

Of relevance to the Legislative Council Environment, Land, Water and Planning Committee is the DELWP Aboriginal Self-Determination Reform Strategy, 2020-2025, which was developed through a highly collaborative process.

The DELWP Aboriginal Self-Determination Reform Strategy sets out principles and models for varying levels of participation, demonstrating how high-quality Aboriginal expertise has been incorporated into policy development that directly affects Aboriginal people. It recognises the fundamental human right of self-determination for Country and its resources, and recognises that only Traditional Owners can speak for Country. Government agencies can take learnings from this highly collaborative process.

Victorian Government Public Engagement Framework 2021 – 2025

The Victorian Government Public Engagement Framework 2021 – 2025 sets out a whole-of-government approach to engaging communities and stakeholders in policy, service design, and decision-making processes. While not Aboriginal-specific, the Framework provides principles and practical tools that can guide respectful, meaningful and accountable engagement with Aboriginal people. It acknowledges that engagement is not a one-size-fits-all and should be proportionate to the significance of the decision and the degree of impact on communities.

When applied in Aboriginal contexts, the Framework highlights the importance of working in partnership with the ACCOs, cultural authorities and communities. It also stresses that building trust and long-term relationships is central to effective engagement. Government agencies are encouraged to embed engagement as a core part of program and policy development, not as a one-off event, and to tailor engagement processes that honour self-determination and cultural protocols. The Framework is intended to complement, rather than replace, Aboriginal-led engagement strategies.

United Nations Declaration on the Rights of Indigenous Peoples

The principles of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) are embedded in the National Agreement, the Victorian Aboriginal Affairs Framework (VAAF) and the Self-Determination Framework. These three documents sit across all areas of the Victorian Government and set out clear commitments and outcomes. All strive towards achieving self-determination for Aboriginal people. As noted in the Declaration:

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.⁹

⁹ State of Victoria Department of Environment, Land, Water and Planning (2019) *Rupangarli Mammarnepu 'Owning Our Future' Aboriginal Self-Determination Reform Strategy 2020-2025* accessed on 3 June 2025 from https://www.deeca.vic.gov.au/__data/assets/pdf_file/0006/142121/Rupangarli-Mammarnepu-Aboriginal-Self-Determination-Reform-Strategy-2020-2025.pdf

¹⁰ United Nations (2007) *United Nations Declaration on the Rights of Indigenous Peoples article 23*. Retrieved on 3 June 2025 from https://www.un.org/development/dp/undp/content/uploads/sites/19/2018/11/UNDRIP_English.pdf *Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.*

Recommendation 1: Strengthen partnerships with local Aboriginal communities, organisations and Traditional Owners so that they can participate in shared decision-making

Establishing strong partnerships with Aboriginal communities and organisations is essential to ensure that government departments and agencies support longer forms of self-determination to ensure that Community voices are not just consulted on making decisions but are part of decision-making itself.

Strong partnership elements support the journey towards self-determination

Clause 32 of the National Agreement sets out the principles for strong partnerships. These principles require partnerships to be accountable and representative between Aboriginal people and all levels of government. Victorian government agencies must formalise these principles by embedding them in clearly defined agreements, ensuring that decision-making is shared between government and Aboriginal people. Furthermore, Clause 32 requires that Aboriginal partners require funding so that they can participate in these partnerships in a well-informed way.

This level of partnership should not be viewed as hurdle to engagement, nor should the absence of such partnerships prevent government from engaging with Aboriginal organisations. Instead, these partnership elements are referenced to demonstrate how relationships between government, Aboriginal communities and organisations can be strengthened and transformed to be reciprocal, shared decision-making arrangements. Further, these elements can be adapted and applied to other groups and communities to further support their engagement with government.

The Productivity Commission's findings

Victoria's Truth and Treaty processes were identified by the Productivity Commission as mechanisms that support self – determination.¹¹ However, the Productivity Commission similarly notes that the commitment to shared decision-making is not achieved in practice because of a hesitancy to share the power to make decisions. This led to the recommendation of the Productivity Commission Review, which is that “Power needs to be shared”.¹² Sitting under this recommendation, are five essential actions which have been agreed in the National Agreements, including Victoria.

Relevant to this Inquiry is essential action 1, which requires governments [treat] ACCOs as essential partners in program and service design and delivery, not just as funding recipients”. This recommendation aims to transform the relationship between governments and Aboriginal organisations, by requiring governments to recognise the authority of Aboriginal organisations to represent the perspectives and priorities of their communities, and to determine how service and program models of delivery can best reflect these. It states that Aboriginal organisations should be essential partners in commissioning services, not simply as passive funding recipients. Therefore, commissioning approaches need to

¹¹ Productivity Commission (2024) *Productivity Commission Review: National Agreement on Closing the Gap, Study report, volume 1*, Canberra. Retrieved from <https://www.pc.gov.au/inquiries/completed/clc/review-report.pdf>.

¹² Ibid.

incorporate obligations for governments to share decision-making in the design and delivery of solutions.

Putting partnerships into practice

The Victorian Government has already enshrined its commitment to self-determination in the Victorian Charter of Rights and Freedoms, which more broadly. However, there are still significant gaps in how these rights are put into practice, as there is not a consistent approach across all parts of the Victorian Government.

Identify opportunities to strengthen partnerships

Ngaweeyan Maar-oo is an example of a community justice. As the Aboriginal caucus for the Victorian Government Partnership Forum, we are part of the Agreement on Closing the Gap, we are embedded as the shared decision-making mechanism for Closing the Gap. However, we still face challenges, largely driven by capacity and time. We are often asked for advice and input, with little time and information to ensure that our input is informed and appropriate. Our members are also often members of several committees and are therefore experiencing consultation fatigue. The approach to consultation also often means that our members must conform to government processes which are lengthy, overly formalised and lack transparency.

Our remaining recommendations aim to show how these barriers can be addressed so that where partnerships are in place, they are functional, sustainable and strong.

To implement these recommendations, we suggest that the Victorian Government identifies clear formal and informal consultation and engagement pathways. The nine Aboriginal Governance Forums across various sector areas and departments are examples of formal partnerships with a state-wide remit. The Local Aboriginal Justice Advisory Committees (LAJACs) and Regional Aboriginal Justice Advisory Committees (RAJACs) are examples of formal local partnerships that are formed within local communities that recognise the needs, priorities and challenges that face that community. Informal partnership, such as through stakeholder relationships are also important. By identifying these partnerships and the gaps or absence of necessary partnerships, processes can be put in place to use them effectively.

However not all partnerships are equally recognised or supported. Funding disparities, inconsistency in approaches and agreements in place and varying levels of government engagement mean that some partnerships are unable to effectively fund. For example, the Victorian Aboriginal Housing and Homelessness Forum (VAHHF) is not supported by a formal strategy and agreement. This limits the VAHHF's capacity to engage in an authoritative way. In accordance with clause 33, and as explored further in the next recommendation, these partnerships must be resourced to be effective. This is not just about money, but about time, information and the ability to gain independent advice.

All consultation should account for the impacts on the original people and Communities, and this assessment should be done by Aboriginal people. The consultation and engagement approach should also be co-designed so that these impacts are managed and mitigated and the negative consequences limited. Ngaweeyan Maarri suggests that it may not always be appropriate for shared decision-making to occur, but not necessarily not appropriate for consultation to not progress beyond informing Community engagement.

Put Aboriginal people in the driver's seat

Aboriginal people will get the best life out of the system if agencies work with them in genuine partnership. Top-down, ill-informed programs that exclude Aboriginal people from mainstream decision-making processes do not work. Aboriginal people are in the

driver's seat, they design, deliver and implement policies and programs that produce excellent outcomes.

We were able to see the true value of us... pandemic. The COVID-19 Aboriginal community Ta... for students, culturally effective coronavirus (COVID-19) responses to Aboriginal communities and delivered culturally safe... was funded by the Victorian Government, showcasing the value of Ab... power to make their own decisions, with support from the government for imp...

Case Study: COVID-19 Response

During the COVID-19 pandemic, Aboriginal Community Controlled Health Organisations (ACCHOs) played a crucial role in mitigating health risks among Aboriginal and Torres Strait Islander communities in Australia. Facing disparities in healthcare access, ACCHOs filled communication gaps with culturally tailored resources.

Funded by the Victorian Government and led by Aboriginal health practitioners, ACCHOs effectively managed health crises by providing culturally safe healthcare environments. For instance, at Bendigo & District Aboriginal Co-operative, Aboriginal health practitioners led efforts that significantly boosted COVID-19 vaccination rates through community-centred approaches.

By October 2021, around 80% of Aboriginal Victorians had received a first COVID-19 dose and 58% were fully vaccinated – among the highest rates nationally.¹⁴

This highlights the strength of ACCHOs and their value in engaging with Community to deliver on policies and reforms. ACCHOs know what works for Aboriginal people and they are able to deliver positive outcomes, despite criticisms to the contrary. This can be contrasted with the failures of the NSW Government in relation to the COVID-19 response in NSW, where the failure to partner with Aboriginal communities and organisations resulted in significant harms to Aboriginal people and communities, including Wilcannia, Brewarrina and Walgett.

However, in the years since, ACCHOs have continued to largely be treated as funded service delivery agencies, rather than supported as leaders capable of designing and driving policy as equal partners with government.

¹³ Department of Premier and Cabinet Annual Report 2019-2020. *Strong policy outcomes – key initiatives.* Retrieved on 4 June 2025 from <https://www.vic.gov.au/department-of-premier-and-cabinet-annual-report-2019-2020/strong-policy-outcomes-key-initiatives>.

¹⁴ Department of Premier and Cabinet. (2021) *Aboriginal health services in race to boost vaccinations* [Media release]. Retrieved on 4 June 2025 from <https://www.premier.vic.gov.au/sites/default/files/2021-10/Aboriginal%20Health%20Services%20In%20Race%20To%20Boost%20Vaccinations.pdf>

Recommendation 2: Support the Aboriginal Community Controlled Sector and cultural authorities to better participate in decision making, consultation and engagement processes

When governments partner with Aboriginal and Torres Strait Islander organisations, their expertise and ability to engage with Community, better outcomes are achieved. Cultural authorities have the knowledge and expertise to provide authoritative advice on engagement methods for engagement, policy and program development and service delivery. Whilst there has been a shift towards working in partnership with ACCOs and cultural authorities, rather than consulting them briefly (Priority Reform 1 National Agreement), there are still major barriers to their capacity to engage.

The Productivity Commission recommends that governments adequately resource Aboriginal and Torres Strait Islander organisations so that they can apply their knowledges and expertise in the implementation of the Agreement.¹⁵ Victorian government agencies must address persistent under-resourcing of Aboriginal organisations by providing stable, long-term funding for the ACCO sector. This will boost their capacity to meaningfully engage in decision-making processes.

Increase capacity of Aboriginal organisations to properly engage consultation processes

It is commonly said by Aboriginal leaders “nothing about us, without us”. As explored previously, this refers to the needs for stronger forms of partnership and shared decision-making to allow Aboriginal people to inform policies that impact them. There has been a shift towards this in recent years, however with it comes an increased burden on an already under resourced sector.

Often, ACCOs and Aboriginal people are asked for their expertise to inform government policy and reform, but are not adequately supported to do so. Short timeframes, lack of clarity and lack of resourcing often mean that ACCOs and cultural authorities can't provide timely and well-structured advice that reflects their expertise and experience. Crucially, this limits their capacity to actively engage in consultation and decision making. Government agencies should demonstrate their commitment to addressing priority reforms 2 and 3 by strengthening and resourcing sectors, and appropriately remunerating Aboriginal people for their expertise, especially cultural expertise.

Funding the workforce to participate in consultation and policy development

Victorian government agencies and consultants are significantly more resourced to provide policy and program advice than ACCOs and cultural authorities. Current funding models for ACCOs typically focus on service and program delivery, with very little funding for building and driving policy and strategic reform within organisations and across sectors. This means that at a foundational design level, ACCOs are limited in their capacity to proactively engage with government, often having to wait to be consulted by government on these matters. Similarly, ACCOs often struggle to find internal resourcing in an at capacity workforce so that they can undertake their role. By resourcing ACCOs and partnerships,

¹⁵ Productivity Commission (2024) *Productivity Commission Inquiry into Community Consultation: Agreement on Closing the Gap, Study report, volume 1*, Canberra. Retrieved from <https://www.pc.gov.au/inquiries/completed/closing-the-gap/study-report.pdf>.

government agencies can support ACCOs and cultural authorities to fully participate in decision-making, policy design and service delivery.

Clause 45 of the National Agreement refers to the need for a dedicated policy staff. This includes a dedicated and identified Aboriginal professional staff (policy design, delivery) and support for ACCOs delivering services to government. This is a significant commitment and influencing capacity. However, the current funding model does not limit the support made available to individual Aboriginal organisations. This means that ACCOs can provide a dedicated policy workforce means that ACCOs can provide a dedicated policy workforce that government needs and asks for. These professionals enable organisations to undertake tasks such as engagement in consultations, advocacy, and development. Without designated policy staff, it is difficult for ACCOs and cultural authorities to participate in partnerships as equal partners. They are doing work on limited budgets without the institutional support that government agencies take for granted.

They also need access to stable, ongoing funding, or longer-term contracts, so that they have a sustainable and secure workforce to maintain continuity and build historical knowledge on reform and policy. ACCOs and cultural authorities are often funded on short-term or rolling agreements, meaning that they can't provide job security or pay competitive salaries. They often lose staff to government or other organisations. The ACCO sector additionally experiences challenges in retaining staff because they can't compete with conditions offered by government entities and governments. Current funding often doesn't allow for professional development, making it hard to compete with larger mainstream and government organisations.

In a bid to retain staff, ACCOs and cultural authorities are topping up funding to establish genuine and useful professional development opportunities. They would be more competitive if they could offer funded professional and leadership development opportunities to their staff. Government agencies could address this issue by increasing funding for professional development and providing longer-term or ongoing funding for policy professionals. They also need access to flexible funding models so that they can use their money at their discretion. Work is needed to uplift the standing of ACCOs and cultural authorities as employers of choice so that they can be regarded as a competitive employer.

Government agencies could further uplift workforce capability by including ACCOs and cultural authorities on the rotation list for Victorian Government Graduate programs. This action has the potential to add value to both government agencies and Aboriginal organisations, as they both learn about policy development, grant writing and more. It also has the potential to increase cultural awareness in the VPS workforce, and develop relationships between the two sectors.

Most of the time, government agencies don't engage with our members in this way. This point is well-illustrated in the development of Victoria's Closing the Gap Implementation Plan. Members were given short timelines to consult and develop recommendations, and had few opportunities to consult with their community in a timely manner. This process led to the sentiment that it was a box-ticking exercise.

The process for developing the Implementation Plan have been vastly improved with more time to ensure that the method for developing the plan is Aboriginal-led and self-determined. With the right amount of time, members could have conducted more extensive consultation for gathering and presenting this information. This may have centred around traditional methods, as well as other Aboriginal-led methods of consultation and decision-making.

Case Study: Consultation for the Closing the Gap Implementation Plan

The Victorian Government's Closing the Gap Implementation Plan was extended for two years until June 2025 following a failure to adequately prepare to refresh the plan.

When work commenced to develop a new Plan in late 2024, the inequity in resourcing presented a clear barrier to how ACCOs were supported to engage.

The Ngaweeyan Maar-oo Secretariat is resourced at approximately 6 FTE, and has a wide range of responsibilities, including providing secretariat support, advocacy work, policy development, responding to inquiries, engaging across all levels of government, working with the First Peoples' Assembly of Victoria, and doing the work required under the National Agreement. The implementation plan is only one piece of work delivered within this resourcing pool.

Ngaweeyan Maar-oo members are either forum delegates or elected sector representatives. Forum delegates receive no extra resourcing to participate in Ngaweeyan Maar-oo or any Closing the Gap work, whilst sector representatives receive funding to support less than 1 FTE policy officer. In contrast, government agencies have entire teams dedicated to Closing the Gap, and in some cases, the implementation plan.

Despite the inequity, the Ngaweeyan Maar-oo Secretariat was able to deliver extensive consultation and engagement with its members to deliver a large amount of work in a short period of time. On the other hand, government agencies took a very hands off approach, which has since led to further delays to deliver the work, with the time frame being pushed out until June 2026.

This experience illustrates several key points:

1. That there is a glaring disparity in the resourcing of government agencies and ACCOs when working in partnership to deliver a joint piece of work
2. ACCOs often do a large amount of heavy lifting due to increased accountability and reporting (including through funding agreements) to justify what resourcing they receive. There is no equivalent accountability for government agencies.
3. The approach to consultation is very different, and the hands-off approach used by government did not support other government agencies to engage, which has largely driven the further delayed timeframe.

Aboriginal expertise should be valued in the way that it deserves

Government agencies must value Aboriginal expertise in the way that it values the experience of people on boards and advisory councils, including structured payments. This remuneration method contrasts with the gift cards that Aboriginal people have received as remuneration for engagement in extensive, lengthy consultation. The Victorian Government could set payment grades, considering the level of expertise provided (for example, years of experience, lived experience, complexity of role) and the sensitivity of the work provided, such as family violence lived experience.

Government agencies must appreciate the additional burden that Aboriginal people take on when participating in consultation processes and communicating with their communities. This term refers to the additional and often invisible burden that Aboriginal people carry in their workplace due to their cultural background, in this instance contributing to the workload and providing advice as part of

councils and boards. Their contributions must be acknowledged through appropriate remuneration, and training for government agencies.¹⁶

The provision of gift cards instead of money as remuneration for consultations is insulting and inappropriate to community. If Aboriginal people in the community or within an organisation are being sought out for their expert advice, government should remunerate community members with money (not gift cards) and reimburse organisations for their employees' time if an employee is providing expert advice during their duties as an employee of an ACCO.

-Ngaweeyan Maar-oo member

Removing barriers to participating in consultations

Government agencies must make it easy for people to meaningfully in consultations. Consultations are frequently characterised by short timeframes, with members ill-prepared to provide thorough advice. Aboriginal organisations rightfully demand to be given adequate time to prepare for meetings and be given relevant agenda papers. Facilitators must afford Aboriginal organisations enough time to delegate and properly brief the correct people for the meeting. Consultations and engagement must articulate the purpose, outline the issues for discussion, and what decisions are sought to be made during or following the consultation.

Government agencies must be genuinely committed to properly engaging Aboriginal people in consultation processes. Members have shared about times when government agencies 'ticked the consultation box' because they invited organisations to a single meeting/workshop. In this example, government agencies report that they collaborated or partnered with an Aboriginal organisation. Meeting on one occasion with many participants is a poor example of strong collaborative practice.

These principles also extend to the request for written submissions. ACCOs and cultural authorities must be given adequate time to prepare submissions and advice early in the policy development cycle. These organisations are operating at capacity. At the same time, they are also committed to ensuring that government agencies can make meaningful change to policies and programs that directly affect Aboriginal people.

In many instances, when the Victorian Aboriginal Legal Service request an extension in order to engage properly with the consultation and prepare a thorough response as an over-burdened ACCO, we are frequently told that government agencies will accept our submission, but it may not be incorporated into the final advice that the agency develop. Such responses are evidence of the inflexibility of government agencies towards ACCOs and, despite their evidence at Yoorrook, their continued disrespect of self-determination. This sends a clear message to ACCOs that "you can either play by our rules, or your voices will be ignored". We see the problematic approaches of Government in consulting with Aboriginal Organisations being reproduced, over our objections. The confidential nature of many consultations we engage in also acts as a gag, stopping us from being able to raise these issues in other forums.

¹⁶ Commonwealth of Australia (2025) Cultural <https://www.apsc.gov.au/working-aps/diversity>

¹⁷ <https://www.apsc.gov.au/working-aps/diversity> from <https://www.apsc.gov.au/working-aps/diversity>

Recommendation 3: Transform the way that government undertakes consultation and engagement, to make sure that processes are culturally-led, free from racism and accessible to Aboriginal people, communities and organisations

This recommendation refers to how government agencies need to transform existing practices to engage with Aboriginal people and organisations to meet their National Agreement obligations. We are echoing the findings of the Productivity Commission and the commitments under the National Agreement when we say that the Victorian government needs to make a concerted, whole-of-government approach to transforming the way it works with Aboriginal people. Clause 59 of the National Agreement sets out the following information elements, which governments have committed to implementing for government departments, institutions and agencies:

- a) Identify and eliminate racism
- b) Embed and practice meaningful consultation and safety
- c) Deliver services in partnership with Aboriginal and Torres Strait Islander organisations, communities and people
- d) Increase accountability through transparent funding allocations
- e) Support Aboriginal and Torres Strait Islander cultures
- f) Improve engagement with Aboriginal and Torres Strait Islander people

Ensure engagement is culturally safe and consistent

Despite the existence of countless frameworks, strategies, policies and examples of best practice, the current approaches to consultation and engagement continue to fail Aboriginal people. One of the missing factors is the lack of consistency across these guiding documents, exacerbated by differences in how they are applied, when they are applied and those who are applying them.

Victorian government agencies must support staff to change their engagement practices by reviewing existing strategies so that they are Aboriginal-designed and are delivered in a way that is culturally safe. They must also produce an overarching strategy that gives clear, authoritative and *practical* advice on consulting with Aboriginal people. This Strategy should be led by and co-designed with ACCOs and cultural authorities, and embed meaningful consultation throughout the policy and program cycle.

Seeking advice from cultural leaders early in the policy and program cycle

ACCOs and cultural authorities are well-placed to advise on methods for engagement and decision-making within the scope of information that they have. As the experts on what Community needs and their experiences, it makes sense to let Aboriginal people design and drive consultation methods on initiatives that mostly impact them.

Government agencies can get the best outcomes for Community by engaging with, and remunerating ACCOs and cultural authorities in the program development process. By doing this, they can also reduce engagement costs by reviewing previous consultations, and drawing on publicly available information from community-controlled organisations and cultural authorities.

Ensuring that consultations are not exercises in box-ticking

Other problems can be avoided by ensuring that people and communities incorporate Aboriginal and Torres Strait Islander perspectives. This includes self-determining timelines and not rushing the process.

Members identified poor processes and outcomes as a common feature of low-quality consultation. More Aboriginal people should be involved in consultation processes, using their deep knowledge of engagement with government. The Productivity Commission noted that all who want to contribute should have:

- access to the same information as decision-makers
- fair and equitable chance to comment on proposals and extra information (if needed) to understand the meaning of proposed decisions
- have the opportunity to consult with the wider community
- find out how their feedback informs decisions, and reasons for decisions.¹⁷

Recruiting consultants using an Aboriginal-led selection process

In cases where in-person consultation is not possible, and following discussion with cultural leaders, decision-makers should put careful thought into how the tender process for appointing consultants should be conducted. We acknowledge that consultants provide governments with an opportunity to bring in expertise that they do not have, as well as objectivity and a fresh perspective.

However, we caution against government agencies outsourcing their responsibilities in understanding and designing solutions. In cases where there is a need for an external consultant, the consultation process needs to consider how to keep and build the knowledge gathered through these processes and embed them back into government for the future.

All requests for quotes/tenders that are Aboriginal matters should align with the UNDRIP principles. This includes demonstrating how they incorporate the principles of free prior and informed consent (FPIC) into consultation processes. By following FPIC processes, facilitators can better anticipate and mitigate potential risks (such as conflicts with communities, environmental or cultural heritage damage), and foster trust-based relationships within a sustainable decision-making process.¹⁸ They will also ensure that the right people are involved in consultations, and that they are equipped with the right information prior to consultation.

*FPIC empowers First Nations Peoples to offer or withhold consent, at any stage, as part of their participation in decision-making that concerns projects, laws and policies affecting their lives and lands, skies, waters and resources.*¹⁹

Shifting consultation funds to ACCOs & cultural authorities

When government agencies and hired consultants work with ACCOs and the wider community on behalf of government agencies, they should ensure that they support those who provided valuable information.

¹⁷Productivity Commission (2024) Productivity Commission Inquiry into the National Agreement on Closing the Gap, Study report, volume 1, Canberra. Retrieved from <https://www.pc.gov.au/inquiries/completed/closing-the-gap/study-report/volume-1/>

¹⁸ Free, Prior and informed Consent. Retrieved from <https://www.pc.gov.au/inquiries/completed/closing-the-gap/study-report/volume-1/undrip/free-prior-informed-consent/>

¹⁹ Ibid.

Tenders must allow for these payments, and as an accountability measure, they must also provide evidence of how they compensated consultants.

Consultations are generally conducted by private consultants. These firms received \$821 million in 2023, just less than half of this amount went to the top 5 vendors, all of which are non-Indigenous organisations, with the exception of one. The Victorian Social Procurement Framework states that ACCOs and cultural authorities are prioritised, government agencies should engage responsibly, as well as getting information that they need.

Selecting consultants to facilitate consultations

Example of selection criteria for consultants

- ✓ Is Aboriginal
- ✓ Is employed by an Aboriginal community-controlled organisation or cultural authority
- ✓ Has the appropriate skills and knowledge
- ✓ Has undertaken an accredited cultural safety course
- ✓ Understands how to incorporate principles of free prior and informed consent and UNDRIP
- ✓ Can get the right people into consultations and give them information prior to the session in a timely manner

We recommend the shift to Aboriginal-led consultants as a key way to ensure that consultations are conducted in a culturally safe way. Aboriginal people and organisations have found that they need to provide advice on Aboriginal or mainstream frameworks and strategies when a non-Aboriginal person facilitates consultation sessions, that there is an additional cultural load of having to explain the context and educate those facilitators on the issues. Subsequently, there is a risk that the facilitators own biases mean that what is said by Aboriginal participants, is not what is heard, impacting the final outcomes of the consultations. There are many Aboriginal organisations and people that could be drawn on to conduct consultations, ranging from ACCOs that provide services, to Traditional Owner Corporations who progress wider social, economic, environmental and cultural objectives.

Increase the capacity of public servants to facilitate culturally safe engagement

We recommend that Victorian Public Servants and consultants undertake an intensive cultural awareness and training course with an Aboriginal community-controlled organisation prior to consulting. This training should enable them to consistently understand and apply the National Agreement on Closing the Gap, IAP2, FPIC and the core business outlined in the VAAF. It should be co-developed with ACCOs and cultural authorities.

²⁰ VAGO 2023 *Contractors and Consultants* report, published on 3 June 2025, available from <https://www.audit.vic.gov.au/report/contractors-and-consultants> (https://www.audit.vic.gov.au/report/contractors-and-consultants?section=).

Case Study: Using Aboriginal - led consultations to strengthen VPS work

The now defunct Centre for Evaluation and Research Evidence (CERE) was a Victorian Public Service unit that consulted on:

- An evaluation of Victoria's networked public health model (the Local Public Health Units).
- The development of an Alcohol and Other Drug (AOD) Strategy for Victoria.

The engagement of a consulting partner *within* the VPS meant that inappropriately rushed consultation and engagement parameters were accommodated, and consultation and engagement with Aboriginal people was considered to be low-quality. CERE staff were skilled in many ways, however they lacked awareness of the ACCO sector. The consultation could have been vastly improved with the involvement of an independent Aboriginal consultant to steward consultation and community engagement processes.

Over-reliance on Aboriginal public servants

We understand that in a proportion of cases, Aboriginal government staff are being used as a proxy for community consultation. This engagement approach is inappropriate for many reasons. Government agencies are overly relying on Aboriginal public servants for advice, creating an unsustainable cultural load for them. They may also carry conflicting interests and lack of cultural authority making them unsuitable to provide authoritative advice. Government agencies need to consult broadly so that they can develop effective policies and programs.

Similarly, Aboriginal public servants are often expected to carry the whole burden of ensuring culturally safe practices, whilst other public servants are alleviated of this responsibility. Cultural safety is everyone's responsibility.

Amplifying the voices of a range of Aboriginal people

The National Agreement states that shared decision-making requires engagement with a wide variety of groups of Aboriginal and Torres Strait Islander people, including women, young people, elders, and people with a disability. However, in its Review of engagement, the Productivity Commission, highlighted several flaws experienced by Aboriginal people during the development of the National Agreement.

The Productivity Commission described the following groups as not being heard in the development of the National Agreement:

- People with disability
- People in incarceration and detention
- Children and young people, including children and young people in care systems
- Women's voices, as often they were not a 'seat at the table'
- Stolen Generations' survivors and descendants
- Aboriginal and Torres Strait Islander CALD and MIA+ community
- remote communities.²²

²¹ Productivity Commission 2022 *Review Paper*. Retrieved on 3 June 2025 from <<https://www.pc.gov.au/research/engagement-summary>>.

²² Ibid.

This echoes our member observations. Government agencies must employ a range of consultation methods to ensure that they hear from Aboriginal communities. They must also seek cultural advice from Elders and other community members of those that they find hard to reach.

Government agencies could better reach Aboriginal communities by working with ACCOs and other networks to reach grass roots organisations, particularly in remote areas. They could also harness the expertise of community members for future consultation, and be willing to invest time into maintaining these relationships. Agencies could investigate a variety of methods, including soft launching consultations, so that CEOs and organisations know are aware of upcoming consultations.

Reviewing and updating cabinet processes so that budget priorities and outcomes can be determined by Aboriginal community-decision making

Governments can achieve greater success in policy and program outcomes by increasing the amount of meaningful consultation undertaken during the budget bid and cabinet processes. However, this is not happening in most cases, despite obligations under the National Agreement. This level of under-engagement can mean that government agencies are spending millions of dollars both inefficiently and ineffectively.

Aboriginal organisations and cultural authorities bring high quality expertise to the development of budget bids. Under their obligations to meet priorities and outcomes in the National Agreement and VAAF, government agencies should at a minimum, be incorporating Aboriginal expertise into budget bids that directly affect their communities. Cabinet processes should be reviewed and updated so that they explicitly promote, support, and encourage the Closing the Gap Priority Reforms under the National Agreement. This was also recommended as essential action 3.3 of the Productivity Commission's review, an action accepted by the Victorian Government.

By implementing advice from engagement and consultation, programs and services funded through the State Budget process may be more reflective of what ACCOs and Aboriginal people require to support their communities and close the gap. However, time and time again, advice on budget bids is inconsistently adopted, and in some cases rejected if it does not align with government priorities. Such actions not only lead to poor policy and program outcomes, but also damage otherwise strong relationships between government agencies and the parties consulted.

Case Study: Journey to meaningful participation in budget bid processes

Over the past three budget cycles, the Department of Health has been working in a more collaborative way with VACCHO to ensure that budget bid processes reflect their advice.

In 2023-24, DH wrote Business Cases that were informed by VACCHO advocacy, but VACCHO was left out of the loop about the outcome. In 2024-25, at their own cost, VACCHO contributed all content to the budget Business Case so that commitments in the Aboriginal Health and Wellbeing Action plan would be met. Again, they were unable to see what was proposed or how the budgets were finalised. All three projects within those two business cases were funded, and in operation, but VACCHO have not seen what was submitted, and elements of the funding delivery are still to be resolved.

For 2025-2026, VACCHO secured an agreement that they would 'hold the pen' in Budget Business cases, and that they would determine the priorities. This did eventuate, and they were able to participate in all aspects of budget case development until they were submitted into the DTF portal. This included full budget development and liaison with DTF to determine the EIIF measures and calculations.

Critical to this new process working are partnerships with public servants who have significant experience with the ever-changing Budget process, and a commitment to getting through the many barriers that arise. This includes understanding about when "cabinet-in-confidence" applies. Key VPS partners had to regular lobby in-house to ensure that VACCHO were not excluded from the budget process. This underscores the importance of experienced Victorina public servants being trained to navigate the system effectively.

VACCHO was better positioned to articulate the problems and solutions compared to previous processes, where public servants interpreted our advocacy without direct experience. Challenges that remain include the transfer of workload out of the Department of Health without a transfer of resources to VACCHO, reliable access to data, and the need for "system navigators" for those many moments when the "system says no."



Recommendation 4: Ensure that Aboriginal organisations have access to the necessary data and evidence to enable them to be fully informed when participating in consultations and engagement.

As noted by the National Indigenous Australians Agency, better outcomes are achieved when Aboriginal and Torres Strait Islander people have a say in matters affecting them, including use of data to inform policy-making in government. However, despite government commitments to improve outcomes for Aboriginal people, they continue to face difficulties accessing the local data that they need to advocate to government to change policies and improve their services.

It is important to understand the concept of Indigenous Data Sovereignty when discussing engagement with Aboriginal people. IDS refers to the right of Aboriginal people to exercise ownership and control over Indigenous data across all phases of its lifecycle, including creation, collection, access, analysis, interpretation, management, dissemination, and reuse.²⁴ As a signatory to the National Agreement, the Victorian Government committed to ensuring that its agencies apply IDS principles to the program and policy development cycle (clause 70). Data gaps can only be addressed if Government agencies focus on embedding IDS principles in program and policy development.

In 2024 the Productivity Commission found that there had been no large-scale changes in how governments engage and share data. It called for governments to be *willing* to be led by ACCOs and communities to trial new practices, and to tailor their data management practices in accordance with the diverse cultural protocols and data needs of different communities.²⁵ This practice is in line with the principles of the United Nations Declaration on the Rights of Indigenous Peoples and Free and Prior Informed Consent, both embedded in the National Agreement.

Government agencies are long overdue in implementing Indigenous Data Sovereignty, UNDRIP and FPIC principles. Aboriginal organisations and government agencies can only act in genuine partnership when Aboriginal people own and access their data.

Data and information sharing

Aboriginal people can participate meaningfully in decision making when they have timely access to relevant information, and adequate preparation. When government agencies engage early and transparently and return information in ways that uphold cultural authority, they support stronger contributions and foster long-term, respectful relationships. ACCOs and cultural authorities must have

²³ Commonwealth of Australia 2024. *Framework for the Governance of Indigenous Data*. Retrieved on 16 June 2025 from <https://www.niaa.gov.au/sites/default/files/2024-06/framework-governance-indigenous-data.pdf>

²⁴ Kukutai T & Taylor J (2016b). *Data sovereignty: current practice and future needs*. In: Kukutai T & Taylor J (eds), *Indigenous data sovereignty: current practice and future needs*, CAEPR Research Monograph, 2016/34, ANU Press, Canberra, 1–24.

²⁵ Productivity Commission (2024) *Productivity Commission Agreement on Closing the Gap, Study report, volume 1*, Canberra. Retrieved on 16 June 2025 from <https://www.pc.gov.au/inquiries/completed/closing-the-gap/study-report/volume-1/study-report.pdf>.

shared access to location specific data, and government agencies must consult with them on how information is stored, used and shared, e

Case Study: Lillilwan Project – Community led consultation in the Fitzroy Valley

The Lillilwan project is an example of Indigenous-led consultation and data governance. Starting in 2010 to investigate Fetal Alcohol Spectrum Disorders (FASD), the project was co-designed by Marninwarntikura Women's Resource Centre, Nindilingarri Cultural Health Services, and researchers from the University of Sydney. The process involved early and ongoing engagement with community members to shape the research aims, methods, and governance arrangements. Researchers conducted one-on-one community meetings in local languages, developed visual and audio resources to support informed consent, and ensured ongoing communication through community forums. All data collection was preceded by culturally safe protocols and endorsed by local leaders, with community approval required before findings were shared externally.

Community members were consulted extensively before data collection began, ensuring consent was informed, voluntary, and culturally safe. Project governance was co-designed with local leaders, and findings were returned in accessible formats to families and organisations. The process respected local knowledge systems and strengthened trust in research and service delivery. In the short term, this led to increased awareness and earlier diagnosis of FASD in the region. Longer-term outcomes included establishing culturally appropriate support services, more substantial community ownership over research, and increased capability to advocate for health system reforms. The project demonstrates how community-owned processes, consent-based data collection, and shared governance can improve health interventions' ethical integrity and effectiveness.²⁶

Changing data governance practices

The National Agreement provides Victorian and Commonwealth government agencies with key actions and principles that will enable Aboriginal and Torres Strait Islander people to exercise ownership over their data. Clause 71 of the National Agreement includes Priority Reform 4 calls for governments to develop and implement reforms to data systems and practices to improve First Peoples access to data and enable them to participate in decision making on data about their own communities.

- a) There are partnerships in place between Aboriginal and Torres Strait Islander representatives and government organisations to ensure the improved collections, access, management and use of data to inform shared decision-making for the benefit of Aboriginal and Torres Strait Islander people.
- b) Governments agree to provide Aboriginal and Torres Strait Islander communities and organisations access to the same information on which any decisions are made, subject to meeting privacy requirements and ensuring data security and integrity.
- c) Governments collect, handle and store data at sufficient levels of disaggregation, and in an accessible and timely way, to enable Aboriginal and Torres Strait Islander communities to access, use and interpret data for decision making.

²⁶ Fitzpatrick JP, Elliott EJ, Latimer J, *et al* (2012) *Community protocol for a population-based active case ascertainment study of the prevalence of Fetal Alcohol Spectrum Disorders (FASD) in remote Australian Aboriginal communities*. Retrieved from <https://doi.org/10.1136/bmjopen-2012-000968>. doi: 10.1136/bmjopen-2012-000968

- d) Aboriginal and Torres Strait Islander communities and organisations are supported by governments to build capability and capacity in a meaningful way.

Barriers to obtaining locally relevant data

Government agencies determine what data is collected and what is not. This does not reflect the whole picture, reinforces negative perceptions and does not allow for communities to celebrate strengths and progress. Data should enable not just sharing of information but also community-led decision-making, allowing communities to act independently and be based on their unique needs and circumstances.

Members note the challenges to obtaining data as follows:

- Government predominantly determines what data is collected and the outcomes measured, limiting the relevance and usefulness of data for Aboriginal communities.
- Accessing data is prohibitively expensive, for example such as a \$17,000 fee for a small, outdated dataset from AIHW.
- Government retains data under the guise of confidentiality risks while continuing to hold and use those datasets.

Case Study: Obtaining relevant child protection and justice data

Child protection and justice data revealed during Yoorrook Justice hearings, included information never previously shared with Community, and has not been accessible afterward. There was an alarming proportion of youths and adults in the justice system with a disability, highlighting how the justice system disproportionately criminalises individuals with disabilities. Despite the importance of these insights, the data was not returned or made available for broader use after hearings. The only way to access data is through governance forums, where sharing is restricted and inconsistent, preventing broader community advocacy and planning.

Recommendation 5: Strengthen accountability mechanisms to ensure that consultation is undertaken and that it is meaningful.

Aboriginal people must be actively included in consultation and decision-making. Accountability and transparency through consultation and engagement is essential for building trust and receiving the right information. People are being consulted. There are still high levels of government distrust within Community. There is a misuse of their information and a lack of avenues and accountability where this occurs. This is further reinforced when there is a gap between government policy and commitments and how they translate into practice and action.

Priority reform 3 of the National Agreement states that an independent mechanism be established as a form of accountability. Recommendation 1 of the Productivity Commission Review also echoes the call for stronger accountability to drive better change. The Victorian Government has committed to establishing its independent mechanism for accountability. However, in the interim, complementary mechanisms and processes can be explored to ensure that transparency and accountability is embedded in consultation and engagement processes.

Accountability should be embedded at all levels, at all times

So that Victorian government agencies adhere to consultation and engagement strategies, we recommend that there be clear requirements to demonstrate how they have acquitted their responsibilities. Annual reports should be required to illustrate how individual government agencies have engaged and consulted with Aboriginal organisations and communities throughout the reporting period.

Similarly, policies and projects should require that government agencies develop a clear engagement and consultation plan to ensure that they consult appropriately. These plans should not abrogate existing commitments under broader strategies or commitments, but should instead contextualise how they are put into practice. Plans should identify why certain approaches have been taken, including where decisions have been made to not consult certain parties. They should identify the supports made available to participants, including whether they will be compensated for their time. They should also clearly state what will happen with the information that has been collected and how it has been used throughout the process. All plans should be supported by the principles of free, prior and informed consent.

Similarly, at the end of consultation, government agencies should

- Provide a clear summary of consultation outcomes, in a format agreed with participants and shared only with informed consent.
- Share findings directly with participants and relevant legal authorities.
- Keep Aboriginal people engaged in decision-making and provide accessible, timely updates before finalising policies and projects, before, and
- Provide an explanation of where feedback has been considered or incorporated, especially where formal consultation pathways are not used.

When conducting its review, the Productivity Commission published Review paper 3, which summarises what was heard through the draft report, which sought further information. It is important for ensuring that government agencies engage with communities and organisations with the intent is reflected accurately. It is also important that government agencies, to the extent that is appropriate, make publicly available the results of consultation.

There also need to be consequences for not following the plan and principles. Too often, there is a lack of cultural safety in processes with Aboriginal people. Whilst this will eventually fall within the remit of the independent mechanism, there needs to be accountability for the organisations and individuals who have failed to engage appropriately and obligations to rectify any shortcomings in the approach.

Implementing an Aboriginal Impact Assessment

To ensure that budget allocations go to where they are most needed, government agencies should conduct an Aboriginal Impact Assessment. They have a detailed understanding of how a proposal may impact, harm, or benefit Aboriginal people.²⁷ For example, in 2024 Victoria implemented Gender Responsive Budgeting (GRB), which requires government agencies to include a statement in annual budget papers that outlines the impact proposed policy would have on gender equality.²⁸

This work is parallel to that of the Commonwealth Health Government. An Australian Public Service (APS) guide to gender analysis and impact assessment in policy proposals notes the need for an intersectional approach to policy design and implementation, due to the compounding factors of inequality and marginalisation.²⁹ Government agencies must consider intersectionality when designing budget bids and policy proposals that impact Aboriginal people. Socioeconomic, cultural, linguistic, and other determinants overlap with systemic causes of inequality. Government agencies must undertake more complex analysis when designing policy that truly understands of the lives of Aboriginal people.

The Wiyi Yani U Thangani Report heard from First Nations women and girls on issues that matter to them, with their collective voice clearly stating the need for Aboriginal and Torres Strait Islander women and girls to be at the decision-making table. The APS guide to gender analysis includes key considerations necessary for incorporating First Nations gendered perspective into impact assessment, such as using strengths based language, ensuring policy is healing-informed and considers the structural drivers of inequality as well as the historical and contemporary context surrounding the issue.³¹

²⁷ Australian Public Service Academy (2024) *Gender Analysis and Impact Framework* Retrieved on 10 June 2025 from <https://www.apsacademy.gov.au/resources/frameworks/gender-analysis-framework-resources>

²⁸ Department of Treasury and Finance Victoria (2024) *Gender Responsive Budgeting legislation a national first* (2025) Accessed on 6 June 2025 via <https://www.dtf.vic.gov.au/gender-responsive-budgeting-victoria>

²⁹ Department of Prime Minister and Cabinet (2024) *Gender Analysis and Gender Impact Assessment 2025-2026 Budget* Retrieved on 6 June 2025 from <https://www.pmc.gov.au/sites/default/files/resource/download/including-gender-guide.pdf>

³⁰ *Wiyi Yani U Thangani (Women's Voices): Women's Rights and Our Future Report* (2024) Accessed 06 June 2025 via <https://humanrightscommission.gov.au/aboriginal-and-torres-strait-islander-social-justice/publications/wiyi-yani-u-thangani>

³¹ Department of Prime Minister and Cabinet (2024) *Gender Analysis and Gender Impact Assessment 2025-2026 Budget* Retrieved on 6 June 2025 from <https://www.pmc.gov.au/sites/default/files/resource/download/including-gender-guide.pdf>

In New Zealand, a Cultural Impact Assessment (CIA) documents Māori cultural values, interests, and associations with a resource or area as well as the potential impacts of a proposed activity to facilitate shared decision-making.³² A CIA is a tool used to ensure budget bids are consistent with the Country, culture, or Community. Government of New South Wales has a Cultural Impacts Framework, created by NIAA, alongside a Gender Impact Assessment and other works on responsible budgeting and impact assessment policy.

Using an Aboriginal-led evaluation of the Engage Victoria platform

Too often we see government agencies rely on Engage Victoria as the sole method of engagement with Aboriginal people. Whilst Ngaweeyan has not had access to measures of participation, we believe that this platform would not capture the voices of Aboriginal people. The platform is not Aboriginal-led, has a low profile, is inaccessible to people with low levels of digital access and/or digital literacy, and importantly, it is not trusted by Aboriginal people for providing information. We recommend that the Engage Victoria platform be evaluated using an Aboriginal-led evaluation of the model to make sure that it is fit for purpose when being used for consultations.

³² Quality Planning (2017) *What is a Cultural Impact Assessment?* <https://www.qualityplanning.org.nz/node/991>

Conclusion

The State of Victoria has obligations under international law to ensure good life outcomes for Aboriginal people. It also has a duty to ensure that Aboriginal people are not prevented from being able to live their lives to the full. The National Agreement requires government agencies to meaningfully consult with Aboriginal people, so that they can provide authoritative advice in all parts of the policy cycle. Victorian government agencies can use the National Agreement and international policies, as a roadmap to ensuring that Aboriginal people experience good life outcomes.

To make this happen, government agencies must work with Aboriginal people in genuine partnership, and be willing to let Aboriginal people lead in decision-making. They must stop ticking boxes for consultation, and actively seek out the voices of under-represented people. Where policies and programs directly impact Aboriginal people, Aboriginal people must be in the drivers seat, and they must design and deliver programs that deliver good life outcomes.

Aboriginal people are the experts in their own lives and experiences. They are better off when they are free to make the choices that are best for them. By listening to the way they consult, government agencies can deliver strategies, policies and initiatives that successfully address the needs of Aboriginal people, and make real progress towards Closing the Gap between Aboriginal and non-Aboriginal people living in Victoria.

