AIATSIS Submission: Closing the Gap Refresh Public Discussion Paper

About AIATSIS

AIATSIS is a national institution dedicated to promoting understanding of the value of Indigenous knowledge and culture and its contribution to Australia's identity as a nation. AIATSIS has operated as a custodian of Aboriginal and Torres Strait Islander knowledge for over 50 years - commissioning and carrying out research that has evolved from ethnographic recording to and strategic outcome and impact driven community research partnerships. As a result, AIATSIS holds the most comprehensive collection of unpublished research materials (including audio, objects, manuscripts, moving and still images) relating to Aboriginal and Torres Strait Islander peoples.

We continue to build on this legacy to deploy an extraordinary evidence base to inform policy and practice, including in public policy and program design. To underpin our legislative role in providing advice to the Australian Government on Indigenous cultural and heritage, our active engagement with Indigenous peoples, policy makers and researchers places AIATSIS in a unique position to provide advice and recommendations on the Closing the Gap refresh.

Introduction

AIATSIS supports the adoption of a strengths-based approach to the refresh of the COAG Closing the Gap framework. This is a positive develpment but it cannot be a cursory reframing. It is clear from the minimal progress has been achieved in the decade since the adoption of the Closing the Gap framework that a fundamental change in approach is required.[1] This lack of progress brings into question the way in

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[1] Aside from child mortality, childcare in remote communities and high school retention (both introduced later in 2010 and 2013 respectively) there has been little improvement on other nominated targets: see for example C Holland 2018 'A ten-year review: the Closing the Gap Strategy and Recommendations for Reset', the Close the Gap Campaign Steering Committee for Indigenous Health Equity at

which the targets have been defined and measured over the last 10 years as much as it challenges the policy and program design and implementation that flow therefrom.

The proposed 'refresh' actually requires a complete 'rethink', beginning by first revisiting what we define as success; what we measure; why we measure; how we measure; how and what we analyse; and how we draw conclusions. From the outset, the approach must define success or 'prosperity' in ways that are meaningful for Aboriginal and Torres Strait Islander peoples.

This submission outlines key areas of importance for the refresh initiative:

- A definition of 'prosperity' ought to be adopted that is based on Aboriginal and Torres Strait Islander notions of 'wealth' and freedom rather than the mere accumulation of economic assets.

- Broad and sophisticated definitions of culture must be understood and applied to any actions and processes arising from the refresh.

- Targets or measures of success are co-designed with Aboriginal and Torres Strait Islander peoples and measures things that actually matter to Aboriginal and Torres Strait Islander people.

- Analysis occurs within frameworks that are developed in partnership with Aboriginal and Torres Strait Islander people and are interpreted based on Indigenous conceptions of success

- Structural changes are well balanced with community priorities, addressing blockages, inequalities and inconsistencies in legislation and policy

- Engagement to construct and achieve the criteria occurs in a considered and meaningful way.

Cultural drivers of 'prosperity'

The refresh sets 'prosperity' as its ultimate outcome for Aboriginal and Torres Strait Islander peoples. However, it is important to clarify what is meant by this term. There are two starkly different definitions of prosperity: one that is directed purely at

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https://www.humanrights.gov.au/sites/default/files/document/publication/CTG%202018_FINAL-WEB.pdf.

economic gain, and a second that encapsulates what it is to live a good life.[2] In the past, it has often been the former of these definitions that has been used to define individual achievement. This approach has, is in turn, applied to define success for Indigenous individuals, which is then extrapolated to Aboriginal and Torres Strait Islander peoples collectively or as populations. Common drivers of economic success are then applied as targets, including, levels of education, health and employment. Policy makers do not often perceive a cultural bias or context in building this framework of perceived success.

The refresh must clearly define the outcome of 'prosperity' and related indicators of success in ways that are meaningful for Aboriginal and Torres Strait Islander peoples. Prosperity should be based on what Aboriginal and Torres Strait Islander people believe to be necessary to live a good life and to live well. In the words of Nobel laureate Amartya Sen 'to live a life that [Indigenous] people have reason to value'.[3]

That is not to say that being economically secure and thriving is not relevant and important to the framework, but that it is not the outcome in and of itself. The refresh needs to take the additional step of understanding the capability framework that will lead to prosperity in Aboriginal and Torres Strait Islander peoples' contexts. This includes the importance of cultural identity and community belonging as a source of strength, as well as the social justice of institutions that value and reflect Aboriginal and Torres Strait Islander history, culture and law.

It is therefore pleasing to see the interrelationship between cultural identity and economic participation has is recognised as the basis of the Closing the Gap refreshed agenda and has also been utilised as a policy tool in New South Wales in order to support Aboriginal and Torres Strait Islander prosperity.[4] Further, cultural values, employment and positive health and wellbeing outcomes have been linked through the widely successful ranger and Indigenous Protected Area programs.

It is necessary to build a broader picture of the relationship between respect for Indigenous knowledge systems within the national narrative and the prosperity of communities and individuals. Incorporating Aboriginal and Torres Strait Islander

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[2] C Ritchie, 'Bringing Culture Back? Cultural Resilience, Activism, and the "Courage to be"', Sydney, 22 February 2017.

[3] A Sen, (1999) *Development as Freedom* New York: Oxford University Press.

[4] New South Wales (the jurisdiction with the largest Indigenous population) has developed a similar approach centred on an Aboriginal Economic Prosperity Framework (the Framework). The Framework stems from recommendations made by the NSW Ombudsman under the 'Fostering economic development for Aboriginal people in NSW' Special Report (2016): New South Wales Ombudsman 2016, 'Fostering Economic Development for Aboriginal People in NSW' A Special Report to Parliament under s. 31 of the *Ombudsman* Act *1974* <www.ombo.nsw.gov.au/__data/assets/pdf_file/0019/34138/Fostering-economic-development-for-Aboriginal-people-in-NSW_May-2016.pdf>

knowledge and culture through collaborative policymaking processes provides an opportunity for Aboriginal and Torres Strait Islander peoples to define themselves and to 'represent their thoughts and imaginations out of their contemporary experiences.'[5]

Unsurprisingly, the current deficit paradigm in Australian policy making has resulted in 'unilateral interventions into the political, social and economic lives of Indigenous communities' that not only ignore cultural context but may undermine the cultural capability that could lead to change.[6] Any effective policy program needs to work beyond these conceptual limitations.

The Public Discussion Paper does not adequately recognise the centrality of culture as a key capability and driving force in decision making on structural, community and individual levels. Aboriginal and Torres Strait Islander people continually explain that support for culture and access to country should be paramount and that specific outcomes such as health, education or employment flow from stronger connections to kin and country.[7] Culture must not be undermined nor treated as a peripheral concept - it is central to any successful Indigenous policy design and to the Closing the Gap framework in particular.

(Re) defining culture

If culture is to be at the centre, then the framework must be able to articulate culture as it is understood by Aboriginal and Torres Strait Islander peoples. We are concerned about how the definitions of key concepts adopted in the framework have been developed with limited Aboriginal and Torres Strait Islander co-design and may recreate the deficit discourses of the past with its imposed conceptions of what constitutes a good, productive life.

The centrality of connection to land and people is universal to all Indigenous communities throughout Australia.[8] Policy understanding of Indigenous cultural connections should not be sidelined by questions of how culture can be best defined,

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[5] LT Smith, TK Maxwell, H Puke, P Temara 2016, 'Indigenous Knowledge, Methodology and Mayhem: What is the role of methodology in producing Indigenous insights? A discussion from Mātauranga Māori ', *Knowledge Cultures*, vol. 4, no. 3, p. 139.

[6] J Hunt, D Smith, S Garling & W Sanders (eds) 2008, 'Contested Governance: Culture, power and institutions in Indigenous Australia', *CAEPR Research Monograph*, ANU, no. 29, p. 4.

[7] Preliminary research carried out by the Mayi Kuwayu project has demonstrated observable health benefits in ranger groups who feel more connected to country. See also: S Cairney, T Abbott, S Quinn, J Yamaguchi, B Wilson & J Wakerman 2017, 'Interplay wellbeing framework: a collaborative methodology 'bringing together stories and numbers' to quantify Aboriginal cultural values in remote Australia', *International Journal for Equity in Health*, vol 16, no. 68.

[8] See for example, T Bauman, L Strelein & J Weir (eds) 2013 *Living with native title: the experiences of registered native title corporations*, AIATSIS, Canberra; T Alfred 2015, 'Cultural strength: Restoring the place of indigenous knowledge in practice and policy', *Australian Aboriginal Studies*, no. 1, 2015 p. 7.

largely ignoring Indigenous conceptions of culture.[9] For Indigenous peoples to move from cultural protection and survival to cultural thriving and resurgence, every day cultural practice and expression then a transformative policy framework is required that empowers individuals and communities to make both unconscious and deliberate choices to secure their aspirations through Indigenous ways of being in the world.[10]

We know that the active practice of culture is crucial to the maintenance and preservation of Aboriginal and Torres Strait Islander identities and wellbeing - something critical for all human survival.[11] Indigenous cultural value systems emanate from a connection to country, but these connections can be too readily symbolised and reduced in significance where the practical day to day expression of culture is unrecognised. Ensuring the alignment of the priorities and intention of Indigenous communities and policy maker will be an ongoing challenge to achieving an Indigenous conception of success or 'prosperity' in the framework design.

For example, the Yan-nhaŋu and other Yolŋu traditional owners of the Crocodile Islands use aluminium dinghies with outboard motors and nylon drop nets to catch fish which they then sell through the shop. In understanding the cultural values of fishing for economic livelihood, it was reported that:

> despite the new technologies and economic paradigm, the men still rely on their encyclopaedic knowledge of the behaviour of their target species, the seasons, the weather and the underwater topography of their sea country to navigate and decide where to hang their nets. They also continue to abide by Yolŋu law when they are fishing for the shop, following its proscriptions about fishing in a way that is responsible and shows respect to the country and its owners.[12]

Culture cannot be conflated with tangible heritage (physical landmarks, monuments and objects) nor can it be limited to its artistic expressions, for example dance, song,

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[9] K Daniell, 2014, 'The role of National Culture in Shaping Public Policy: A Review of the Literature', *Crawford School of Public Policy*.

[10] T Alfred & J Corntassel, 2005 'Being Indigenous: Resurgences against Contemporary Colonialism' *Government and Opposition* Blackwell, Oxford, p. 599.

[11] T Alfred, 2015 'Cultural strength: restoring the place of indigenous knowledge in practice and policy, Australian Aboriginal Studies, no. 1, pp. 3-11; L Strelein & T Tran, 2013 'Building Indigenous governance from native title: moving from 'fitting in' to creating a decolonised space *Review of Constitutional Studies* vol 1, no. 18.

[12] L, Smyth, R Kennett, S Buthuŋguliwuy, D Collins, & G Morgan 2018, *Yolŋu fishing values of the Crocodile Islands: Community report for the Livelihood values of Indigenous customary fishing project*, AIATSIS, Canberra.

and art.[13] Rather, **culture must be understood in its broadest form, as the knowledge, laws, philosophies, expressions, art and creativity, and connections to people and places that are transmitted from generation to generation while adapting to change; culture is the interactions that define a society and provide them with a sense of continuity and identity**.[14]

The narrow origins of cultural heritage recognition has constrained the knowledge and regulatory frameworks used to relate to Aboriginal and Torres Strait Islander cultures.

The Closing the Gap refresh requires a framework that can articulate what's important, what values, beliefs and notions or perspectives help Indigenous peoples make sense of the world. Recognising Indigenous culture in public policy is not disposed of through symbolism such as welcomes to Country and acknowledgements. While reflecting an important change in Australian government practices, these acts of recognition can be done without engaging with, or understanding, the values that underpin such cultural expressions. Without understanding, there is a risk that Aboriginal and Torres Strait Islander culture is reduced to a nostalgic curiosity rather than respected as contemporary knowledge system and lived experience. It is not cultural symbolism that is important, but the frameworks of ideas by which Indigenous people live their lives..[15]

While we argue that **culture is not an artefact of history, resurgence and reclamation of cultural practices remains important to overcoming our colonial past and the damage caused through suppression of the culture and identity of Indigenous peoples.** For example, AIATSIS has been running an 18 month project with the Karajarri traditional owners as a part of the Preserve, Strengthen and Renew in Community project. The project sought to return material held in the AIATSIS archive, record new material and support the development of community protocols for the management of their material. One of the most significant outcomes of the project is the accelerated strengthening of culture through the use of archival material of law and ceremony recorded in the 1960s and 1970s.[16]

This work has supported Karajarri led revitalisation work that has also seen the reinvigorated cultural practices in neighbouring groups. The creation of a 'space' for

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[13] C Ritchie, 'Bringing Culture Back? Cultural Resilience, Activism, and the "Courage to be"', presented at International Indigenous Librarians Forum, NSW State Library, Sydney, 22 February 2017.

[14] See UNESCO Convention on the Safeguarding of Intangible Cultural Heritage 2003: Convention for the Safeguarding of the Intangible Cultural Heritage. Paris, 17. October 2003. Entry into force: 20 April 2006.

[15] C Ritchie, 'Bringing Culture Back? Cultural Resilience, Activism, and the "Courage to be"', Sydney, 22 February 2017.

[16] See: AIATSIS *Karajarri Community Report,* May 2017.

this law to occur has contributed significantly to the cultural wellbeing and authority of the Karajarri people and led them to develop a cultural business arm to support other initiatives such as bush medicine production and the creation of a cultural centre on reacquired freehold land. This is a small example of what can be achieved in a year with appropriate support structures that are enabling of cultural priorities.[17]

(Pre)defining Targets

AIATSIS welcomes the need to ensure that there is development and progress with government investments as a part of Closing the Gap; otherwise, existing inconsistencies will be exacerbated. For example, culture is often treated as incommensurate and clearly peripheral in the way that funding regimes, such as the Indigenous Advancement Strategy, have been implemented and defined. Whereas, arbitrary targets such as life expectancy (rather than quality) are targeted as areas of importance.

While we acknowledge the context of the original Oxfam campaign that gave birth to the existing Closing the Gap agenda and the recognition of some Aboriginal people on the policy agenda, the development of the original Closing the Gap agenda was neither systematic nor consultative. **There are glaring content issues** - why the current targets are more important than others or exhaustive as a measure of success? **And process issues** - why weren't Aboriginal and Torres Strait Islander people asked what they considered to be significant in the first place? **Culture, encompassing Indigenous values, particularly of individual and community agency, must remain part of the framework to ensure the prosperity framework does not become another incommensurate benchmark that will continue to measure the wrong things.**

From the literature it is clear that the concepts of collaboration, partnership and culture provide a critical link to achieving collective and individual self-esteem, resilience and ultimately prosperity.[18] Ensuring Indigenous engagement and agency in designing policy and programs requires strengthening support for self-

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[17] For broader studies in this area see: S Cairney, T Abbott, S Quinn, J Yamaguchi, B Wilson & J Wakerman 2017, 'Interplay wellbeing framework: a collaborative methodology 'bringing together stories and numbers' to quantify Aboriginal cultural values in remote Australia', *International Journal for Equity in Health*, vol 16, no. 68. MJ Chandler & C Lalonde 1998, 'Cultural continuity as a hedge against suicide in Canada's first nations', *Transcultural psychiatry*, no. 35, pp: 191-219.

[18] T Alfred 2015, 'Cultural strength: restoring the place of indigenous knowledge in practice and policy, *Australian Aboriginal Studies Journal*, no. 1, pp. 3-11; T Bauman, D Smith, R Quiggin C Keller & L Drieberg 2015, *Building Aboriginal and Torres Strait Islander Governance: Report of a Survey and Forum to Map Current and Future Research and Practical Resource Needs*, Australian Institute of Aboriginal and Torres Strait Islander Studies and Australian Indigenous Governance Institute.

determination; respect for Indigenous governance and decision making structures and genuine commitment to Indigenous priority setting and outcomes evaluation.[19] Measures to support capability and capacity building require co-design with Indigenous partners in order to ensure that the right needs are met in appropriate ways.[20]

The refresh should be genuine and deliberate to express things that matter most to Aboriginal and Torres Strait Islander people. Further, the targets must be directed at important issues and concepts that contribute to wellbeing and prosperity as defined by people. For example, life expectancy can reveal a 10 year difference between non-indigenous and indigenous people, however the **quality** of those lives goes unexplored in that measure.[21]

There are also some obvious targets that have been expressed by Aboriginal and Torres Strait Islander peoples, for example through their native title aspirations, that are consistent across regional areas: including the need to care for country, create culturally appropriate enterprises, teach younger generations, and ensure that older people in communities are cared for on country. AIATSIS engages with communities to establish many of its research and collecting priorities, drawing on the aspirations that have been asserted by our partners. For example, AIATSIS works to monitor and improve the strength of languages with co-created projects such as the Ngunawal Language classes, which aims to establish classes in the Ngunawal language with 10 community members who will develop their language skills to then become teachers of the language in further classes.

We also work with communities to build their cultural confidence and provide access to essential recordings and other archival materials to support cultural revival. Mervyn Mulardy articulated that 'for the Karajarri, a 40 year gap between the most senior knowledge holders [like himself] and the youngest boys who should go

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[19] L Rigney 2006, 'Indigenous Australian Views on Knowledge Production and Indigenist Research' in M Goduka, and J Kunnie (eds)*, Indigenous Peoples' Wisdom and Power: Affirming Our Knowledge*, Ashgate Publishing, p. 39. See also: D Smith 2008, 'From collaboration to coercion: a story of governance failure, success and opportunity in Australian Indigenous affairs', in O'Flynn, J, and Wanna, J, (eds) *Collaborative Governance. A new era of public policy in Australia?* ANU E Press, Canberra, p. 88-89.

[20] For further discussion see AIATSIS submission to IP Australia public consultation on How should Australia protect Indigenous knowledge at https://www.ipaustralia.gov.au/sites/g/files/net856/f/australian_institute_of_aboriginal_and_torres_strait_islander_studies.pdf. See also E Estey, J Smylie & A Macaulay 2009, *Aboriginal knowledge translation: Understanding and respecting the distinct needs of Aboriginal communities in research*, Canadian Institutes of Health Research Institute of Aboriginal Peoples' Health, Ontario, p. 4; S Larkin 2006, 'Evidence-based policy making in Aboriginal and Torres Strait Islander Health', Aboriginal Australian Studies Journal, vol. 2, pp 24*.

[21] See: I Anderson 'Understanding the process', in B Carson, T Dunbar, RD Chenhall and R Bailie (eds), *Social Determinants of Indigenous Health*, Allen and Unwin, 2007.

through law has been closed in one year.'[22] This demonstrates the need to allow Aboriginal and Torres Strait Islander people to identify the gaps which they consider of upmost importance to address because something such as a 'knowledge gap' has not been articulated in the Closing the Gap policy.

Any assessment framework lacking qualitative measures will be incomplete. The inclusion of indicators in addition to metrics and statistical outcomes will assist in revealing the impacts of and changes made by an activity or policy.[23] Qualitative targets and indicators may not be easily quantifiable like the previous numerical targets were. However, this does not make the targets any less legitimate and in fact qualitative and participatory approaches can be more appropriate to understand impact and change. These indicators should be chosen and defined by the people who are affected by the relevant policy.[24]

Further, there are immediate actions that can be taken to ensure that issues of employment, education attainment, family safety and justice are dealt with (before the gap is closed). The last decade demonstrates that Indigenous people will need to wait a long time before they can see any real gains. In the interim other inequities arise. For example, despite the gap in life expectancy, the age in which Indigenous people can access their superannuation remains the same - disabling access to accumulated wealth and entrenching intergenerational poverty. These persistent inequities have been excluded from the way in which existing policy targets are designed.

Evidence base

The refresh notes that targets and trajectories must be developed with systematic evaluation of the evidence to map out key drivers of change. However, **it is important to consider the context and content of the current evidence base, including critical consideration of what data is collected and valued.** It has been noted that 'specific contextual relationships matter as much as scientific

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[22] M Mulardy & W Shoveller, presentation delivered at the Preserve, Strengthen and Renew in Community workshop, 14-15 March 2018, Canberra.

[23] Canadian Academy of Health Sciences, **'**Report of the Panel on the Return on Investments in Health Research January 2009', Making an Impact: A Preferred Framework and Indicators to Measure Returns on Investment in Health Research, 2009, 80.

[24] J Battin & A Mills 2017, *Sharing success, measuring impact: Annotated bibliography*, AIATSIS Research Publications, 3. T Tran, J Battin, MA Jebb & JW, 'Valuing Intangible Cultural Heritage - who decides?' in Indigenous Knowledge Forum, Lexis Nexis (accepted for publication); J Battin & A Mills 2017, *Sharing success, measuring impact: Annotated bibliography*, AIATSIS Research Publications, 3.

findings in processes of evidence use and knowledge translation.'[25] This demonstrates that in examining the evidence base, the context in which data exists cannot be excluded. An important aspect of this context is the circumstances in which evidence is collected.

For example the population statistics currently collected are not 'value neutral' but are instead based on metrics selected to meet government information needs. Population statistics have a 'tendency to focus on Indigenous 'problems' rather than strengths.'[26] Yawuru's initiative to develop their own housing survey in advance of their land use and housing planning is a unique attempt to overcome the issues created by ABS generated population statistics that misunderstand the movement of Indigenous people throughout the Kimberley in and out of Broome.[27]

To take a strengths-based approach necessarily involves the collection of data that is based on Indigenous priorities and allows 'genuine Indigenous decision making to shape the functionality of Indigenous statistics.'[28] This will require consideration and consultation on what data should be collected in order to inform policy and to monitor the achievement of targets.

Evidence, therefore, should not be considered as pure statistics and instead authorship and the wider indicators of the impact of changes should be explored. The Martu developed their own attitudinal survey on employment in and around Wiluna. One of the most significant findings from this survey was the barrier created by drivers licensing in the community. The remote and ad hoc nature of licensing arrangements meant that many people who lived in Wiluna lacked access to administrative services to gain or maintain driving licenses required for a number of jobs available in the community.[29] Further, cultural obligations within the community were not well understood in the context of law enforcement, with some

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[25] BW Head, 2015 'Toward More 'Evidence-Informed' Policy Making', *Public Administration Review,* vol 76, no. 3; S Bowen, P Marterns & The Need to Know Team, 2005, 'Demystifying knowledge translation: Learning from the community', *Journal of Health Services Research & Policy*, vol. 10, no. 4, pp. 203-211.

[26] T Kukutai & M Walter 2015, 'Recognition and indigenizing official statistics: Reflections from Aotearoa New Zealand and Australia', *Statistical Journal of the Association for Official Statistics,* no.31, p. 317. See also: A Wright, R Lovett, Y Roe, & A Richardson 2017, 'Enhancing national data to align with policy objectives: Aboriginal and Torres Strait Islander smoking prevalence at finer geographic levels', *Australian Health Review.* doi: 10.1071/AH16269.

[27] J Taylor, B Doran, M Parriman & E Yu 2014, 'Statistics for community governance: the Yawuru Indigenous population survey, Western Australia', *The International Indigenous Policy Journal,* vol, 2, no.5, pp. 1-31.

[28] T Kukutai & M Walter 2015, 'Recognition and indigenizing official statistics: Reflections from Aotearoa New Zealand and Australia', *Statistical Journal of the Association for Official Statistics,* no.31, p. 317.

[29] Muntjiltjarra, Wurrgumu Group, 2013, 'Martu Attitudinal Survey, Wiluna Region, WA, 2013, Survey Background and Summary' available at https://www.nintione.com.au/resources/rao/martu-attitudinal-survey-wiluna-region-wa-2013-survey-background-and-summary/.

senior Martu men (who provided leadership to the community) gaoled repeatedly for driving offences.

Similarly, Aboriginal people on the South Coast of New South Wales have been systematically prosecuted for what was essentially practising their culture in the taking of fish and other marine resource.[30] Senior cultural leaders have been gaoled for taking abalone over the bag limit, an activity which is consistent with their cultural obligations to provide for the elderly who could no longer engage in these activities. Their gaoling had significant impacts on family relationships as well as the health of the elders. Basic understanding of these cultural obligations and legislating accordingly would have avoided negative impacts on mental health, family coherence and community health.[31]

Similarly, the work of Indigenous researcher, Anna Dwyer on power consumption in Bidyadanga found that electrical billing systems caused significant stress where the community shared power based on obligations to support other family members. The failure of Horizon power to work with traditional owner groups, use interpreters to explain changes or carry out any planning with the traditional owners placed the community in a ridiculous situation where electricity became inaccessible to the community - impacting on food storage, health and safety. As Dwyer notes there are tangible impacts on community wellbeing caused by the 'mainstreaming' of essential services especially where there are cultural practices still in place.[32] Dwyer further argues that on a practical level, cultural differences have an impact on 'leaning and behaviour around money' - a factor possibly disregarded in service provision to Indigenous communities.[33]

The refresh presents a desire to adopt a place-based approach to give communities more control of the decisions that influence their lives. This approach will require

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[30] R Kennet, T Tran, T Heffernan & L Strelnikow, 'Livelihood values in Indigenous cultural fishing: Report of a meeting with Indigenous cultural fishers on the south coast of NSW' *Australian Institute of Aboriginal and Torres Strait Islander Studies*, 2016. See also: AIATSIS *Submission to the Productivity Commission Inquiry into regulation of marine fisheries and aquaculture sectors,* 25 October 2016 <https://aiatsis.gov.au/sites/default/files/products/submission/aiatsis_submission_marine_fisheries_2016_0.pdf>

[31] AIATSIS *Aboriginal fishing values of the South Coast of NSW - Community report for the livelihood values of Indigenous cultural fishing project* , AIATSIS February 2018; Lateline, 'Indigenous fishermen in a fight for their right to cultural fishing on the NSW south coast', ABC News, 5 November 2015, available <http://www.abc.net.au/lateline/indigenous-fishermen-in-a-fight-for-their-right-to/6917520> accessed 21/03/2018.

[32] A Dwyer & T Vernes, 'Power Usage in the Bidyadanga community and its relationship to community health and wellbeing' report prepared by the Nulungu Research Institute, November 2016.

[33] A Dwyer &T Vermes citing Pryor, A. & Garner, S., J 2012, 'Evaluation of MoneyMob Talkabout: Baseline report. A formative evaluation of the MoneyMob Talkabout services delivered by Matrix on Board in Anangu Pitjantjatjara Yankunytjatjara Lands (2012-2014), December 2012.

Aboriginal and Torres Strait Islander groups to have access to the data collected in or about their community as well as control over the assessment process - especially where Indigenous peoples are the intended beneficiaries of Closing the Gap initiatives.[34] In the Indigenous led research examples provided here, a different perspective is offered on the practical challenges - often with serious consequences - created by a lack of cultural understanding.

Evidence underpins policy yet the evidence that has driven policy making to date has been focused on the disparity between 'Aboriginal and Torres Strait Islander peoples relative to the Australian population.'[35] **It is paramount that the research which forms the basis of this evidence is instead driven by Aboriginal and Torres Strait Islander people, including the formulation of issues, conduct of research, analysis and translation of research into policy.** Once this research is gathered, it is necessary to translate this knowledge into policy design. This is best done by groups who straddle two bodies of knowledge, for example expert advisory groups or policy review committees; communities of practice can also be formed to ensure best practice knowledge translation.[36]

Structural and (non-Indigenous) cultural change

Changes to the Closing the Gap agenda must include genuine structural changes that address identified barriers in achieving 'success' or 'prosperity'. Maleki and Bots suggest that definitions of culture tend to emphasise the 'representation of shared values' but can also emphasise points of difference and distinction in a way that generates narratives of deficit and disadvantage.[37] These changes should draw on the strengths already demonstrated to be possessed by Aboriginal and Torres Strait Islander peoples as well as practical reforms to enable positive engagement in mainstream Australia.

The native title sector is now well established in Australia, which has, despite is limitations, seen a maturing of the authorising environment for decision making on Indigenous lands. The recognised land and sea base of Aboriginal and Torres Strait Islander peoples has also provided the infrastructure for increasing Indigenous land

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[34] DE Smith 2016, 'Governing data and data for governance: the everyday practice of Indigenous sovereignty', in Tahu Kukutai and John Taylor (eds), *Indigenous Data Sovereignty: Toward and Agenda*, 2016, p. 129.

[35] A Webster 2002, 'Some Features of Evidence-based Policymaking for Aboriginal and Torres Strait Islander Peoples', *Journal of Indigenous Policy,* no. 1, p.107.

[36] K Daniell, 2014, 'The role of National Culture in Shaping Public Policy: A Review of the Literature', *Crawford School of Public Policy.*

[37] A Maleki & and PWG Bots 2013, 'A Framework for Operationalizing the Effect of National Culture on Participatory Policy Analysis', J*ournal of Comparative Policy Analysis*, vol 15, no 5, pp. 375.

and sea management, arguably one of the most successful Indigenous policy programs to date, contributing to wellbeing, employment and education, environmental management priorities and providing the 'best fit' for Indigenous aspirations to manage country within a cultural framework. For example, 'RNTBCs have been very successful in asserting and implementing their land management aspirations via programs such as Indigenous Protected Areas and ranger employment programs. Indigenous ecological knowledge and Indigenous knowledges more broadly, have gained currency as an essential key to the management of Australian landscapes.' [38]

Further, the successful ranger and Indigenous Protected Areas models of Australia have often been represented as a government 'success', discounting how the program has been driven through the efforts of Indigenous peoples in partnership with well designed policy and funding frameworks. There must be deliberate and explicit effort to foreground Indigenous leadership in any process that is developed as part of the refresh in tandem with adequate policy and legislative change.

For example, positive changes to taxation and charities legislation has supported Indigenous communities to reinvest their native title payments within their communities.[39] Similarly, carbon farming legislation has also recognised the potential for traditional burning practices to support carbon capture in Australia, not only contributing to climate change mitigation but also Indigenous based economies.[40] Many more of these simple structure changes could remove prohibitive barriers to enable Indigenous innovation and participation in cultural and environmental sectors for economic as well as community and cultural benefit.

Process issues in the design and consultation

In this submission we have established that the involvement of Aboriginal and Torres Strait Islander peoples is necessary not to the successful design of policy and programs but also in defining the indicators of success and setting targets for measuring achievement

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[38] AIATSIS Submission to Native Title Act Reforms (2018) Options Paper citing Blair, N 2008. 'Sweet potatoes, spiders & waterlilys - Privileging Australian Indigenous knowledges: Epistemological consequences of knowledge production' (PhD thesis University of Newcastle).

[39] See *Tax Laws Amendment (2012 Measures No. 6) Act* 2013; L Strelein, submission to Review of Australia's Tax System, October 2008 at https://aiatsis.gov.au/sites/default/files/products/submission/2008-submission-tax-review.pdf.

[40] See for example L Strelein & T Tran, AIATSIS Submission to the inquiry into Carbon Credits (Carbon Farming Initiative) Bill 2011, April 2011 at https://aiatsis.gov.au/sites/default/files/products/submission/2011-submission-carbon-credits_0.pdf.

To this end, there a few observations of the process undertaken as part of the refresh to date that should be addressed. Firstly, the COAG communique mentions States leading consultations however, there is no detail on the design of the consultations and specifically who will be consulted. There is a vast difference between consultation and genuine collaboration and the refresh should adopt approaches across the engagement spectrum. It is imperative that Aboriginal and Torres Strait Islander groups are at the fore of this engagement to appropriately navigate the complexity of Indigenous governance in its current form, including inconsistencies and conflicts that have been generated by poor historical policy design.[41] **The multi-lingual nature of Indigenous groups must also be catered for in engagement and consultation processes as well as the many communication challenges confronting remote and rural communities.**

The design of the engagement process requires detail on how to sufficiently garner the views of Indigenous people to ensure the policy writers make considered decisions. Further, the role of state governments - who are significant proponents in the settlement of native title, water management and land use planning on Indigenous lands - should be carefully balanced with the need for transparency and equity in the refresh. There also remains a question around what the role of the Commonwealth will be in these consultations, particularly because they will be formulating the refresh.

A further concern is that this consultation process is taking place only 6 months after a major consultation process with Aboriginal and Torres Strait Islander peoples culminating in the Uluru Statement from the Heart. This raises a concern that a further consultation process could take up valuable time and resources leading to similar recommendations which continue to be disregarded or rejected by the Government.

A real strengths-based approach, emanating from Indigenous priorities and cultural values, **necessitates a change in Australian society and governments to transform how Indigenous peoples experience their relationship with Australian society. Governments must cease imposing values and policies on Aboriginal and Torres Strait Islander peoples and instead allow them to define the values and policies which are a priority to them.** The change in relationship needs to occur in practical ways to facilitate the utilisation and assertion of Aboriginal and Torres Strait Islander peoples' strengths.

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[41] T Tran & C Stacey 2016 'Wearing two hats: The conflicting governance roles of native title corporations and community/shire councils in remote Aboriginal and Torres Strait Islander communities' , *Land, Rights, Laws: Issues of Native Title,* vol. 6, no. 4.

To support the growth of a well contextualised evidence base, the refresh could include a clear role and resources for AIATSIS to produce a biennial or triennial report that maps the situation and status of Aboriginal and Torres Strait islander culture in meaningful ways and critical assesses the policy settings that inhibit or empower cultural expression and resurgence as a key to prosperity. having worked and researched alongside communities for 50 years, AIATSIS is well placed to lead the conversation with communities about determining priorities, gathering evidence and analysing data to ensure genuine transformative change in the contribution that government policy and programs can make to the lives of Aboriginal and Torres Strait Islander peoples.