



**Aboriginal Peak
Organisations**
NORTHERN TERRITORY

The Hon Brent Potter MLA
Chair
Legal and Constitutional Affairs Committee
By email: LA.Committees@nt.gov.au

2 October 2023

Dear Mr Potter,

**Aboriginal Peak Organisations NT submission to the
Legal and Constitutional Affairs Committee (NT)
Inquiry into a Process to Review Bills for their Impact on First Nations Territorians**

"It is vital that everyone respects the long history of Aboriginal people seeking to have a say on matters that impact them. Just think of everything that has come from the Territory- Gwalwa Dariniki Petition, the Yirrkala Bark Petitions, the Barunga Statement. We are proud of our history of fighting for our sovereignty and for self-determination. The Uluru Statement from the Heart and the Voice to Parliament are further steps along the road – to a better future for all," said Joe Martin-Jard, Chief Executive Officer of Northern Land Council.

Introduction to APO NT

APO NT is an alliance of Aboriginal organisations working to promote and protect the rights of Aboriginal people living in the Northern Territory (NT). The APO NT alliance comprises the Central Land Council (CLC), Northern Land Council (NLC), Tiwi Land Council (TLC), Anindilyakwa Land Council (ALC), North Australian Aboriginal Justice Agency (NAAJA), Northern Territory Indigenous Business Network (NTIBN), Aboriginal Housing Northern Territory (AHNT) and the Aboriginal Medical Services Alliance of the NT (AMSANT). The member organisations of APO NT are united in their commitment to improving conditions for Aboriginal people across broad political, economic, social, and cultural areas. Since APO NT's establishment in 2010, our members have been working to develop proactive and constructive policies on critical issues facing Aboriginal people in the NT and strive to influence the work of the Australian and NT Governments.

Underlining our collective work is the right to self-determination, which is detailed and expressed in the United Nations Declaration of the Rights of Indigenous People (UNDRIP). The significance of this cannot be overstated. As representatives from peak Aboriginal organisations in the NT, we share the aim of protecting and advancing the wellbeing and rights of Aboriginal people and communities in several key areas. Local involvement, ownership and control underpins APO NT's work in advocating for practical and sustainable solutions for Aboriginal people. These are then predicated on policy conditions that support Aboriginal self-determination, including commitments to needs-based funding, building the community-controlled sector and centring Aboriginal decisions in how national strategies are implemented on the ground.

Response to the discussion paper 'Inquiry into a process to review bills for their impact on First Nations people'



APO NT strongly welcomes the Northern Territory (NT) Legislative Assembly exploring how to improve its processes to consider the potential impact of proposed legislation on First Nations Territorians.

This consideration is particularly timely given the recent Productivity Commission draft report on the Review of the National Agreement on Closing the Gap has highlighted the need for government to improve how it works in partnership with Aboriginal people to improve life outcomes for Aboriginal people. The Report found that governments are not adequately delivering on their commitments under the agreement and that systemic transformation of government agencies to respond to the needs of Aboriginal people has ‘barely begun’.¹ In the NT, [we are going backwards](#) on eight out of the 17 socio-economic Closing the Gap targets.

APO NT strongly supports the implementation of consultation and accountability mechanisms that empower First Nations Territorians in policy and legislative decision-making processes.

Aboriginal people have the right to have a say over matters that affect us – and we achieve better outcomes when we do so. This fundamental principle is enshrined in UNDRIP, reflected in the principle of Free, Prior and Informed Consent, and underpins the call for a national Indigenous Voice to Parliament, the National Agreement on Closing the Gap, the NT Government’s Local Decision-Making Framework, and the work towards Treaty.

APO NT endorses the joint submission made by our members, the Central Land Council (CLC) and Northern Land Council (NLC), echoing their support for the concept of a review body and qualified support for a statement of compatibility.

We share the land councils’ deep concern about the abolition of previous scrutiny committees in 2020. These committees provided a valuable means for public scrutiny of and input into bills, and demonstrably improved the outcomes of legislation for Aboriginal people in the Territory in a number of instances, including, for example, the Burial and Cremation Act 2022. Since those committees were abolished, there have been multiple instances of highly impactful legislation being passed without any public or stakeholder consultation. For example, the *Youth Justice Legislation Amendment Bill 2021*, which increased the number of children and young people in prison, but has not reduced crime or reoffending, or improved the safety and wellbeing of children and young people.

APO NT also reserves its position on an appropriate structure for a review body, but again echoes the principles articulated by the land councils that any ‘body’ must be:

- Aboriginal-led
- Adequately resourced
- Empowered to have a meaningful impact on the legislative process and the final content of bills
- Have the capacity to bring in subject matter expertise as appropriate
- Operate with timeframes that provide sufficient opportunity for Aboriginal people and their representative organisations to provide input
- Developed with consideration to existing and any possible future Aboriginal representative bodies and forums. This includes land councils, Land Councils, the Northern Territory Executive Council on Aboriginal Affairs (NTECCA), the implementation of the Independent Mechanism (Clause 67 of the National Agreement on Closing the Gap) and a possible national Indigenous Voice to Parliament.

Commitment to Closing the Gap

¹ Productivity Commission 2023, Review of the National Agreement on Closing the Gap – Draft Report.



While welcoming the directions proposed in this inquiry, in this submission, APO NT wishes to emphasise the need for the NT Government to uphold its commitment to the National Agreement on Closing the Gap (2020) and strengthen the mechanisms and governance of that framework to fully embed Closing the Gap in all its operations. Doing so means that First Nations Territorians should be involved in the development of policy and legislation, not just in the review of bills.

The National Agreement on Closing the Gap provides a robust framework supported by all levels of government and the Aboriginal community-controlled sector to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians²

The agreement has been built around four Priority Reforms that have been directly informed by Aboriginal and Torres Strait Islander people. Their intent is to fundamentally change, for the better, the way that governments work with Aboriginal and Torres Strait Islander people and communities.

Priority reform 1: Formal partnerships and shared decision-making

Priority reform 2: Building the Community-controlled sector

Priority reform 3: Transforming government organisations

Priority reform 4: Shared access to data and information and a regional level

Under the National Agreement, each jurisdiction develops an annual Implementation Plan. APO NT has partnered with the Northern Territory Government (NTG) and Local Government Association of the NT (LGANT) to develop the first NT Implementation Plan in 2021-2022 (IP1) that focused on the four Priority Actions of the National Agreement.³ The second Implementation Plan 2023-2024 (IP2) includes ongoing actions from IP1 and actions to address the 17 socio-economic outcomes of the National Agreement is yet to be released.

APO NT plays a leadership role in coordinating and supporting its members to participate in Closing the Gap processes including through its representation and Co-Chairing of the NT Executive Council on Aboriginal Affairs (NTECAA), and Partnership Working Group. APO NT coordinates its member input at these forums and a range of working groups related to the agreed actions under the implementation plans.

The process of working in partnership at so many levels to establish and strengthen these mechanisms to ensure they operate effectively and to achieve their true intent is relentless. Closing the Gap represents a new way of working and, as such, it is a learning process between all partners. As evidenced in the Productivity Commission's draft report of the Review of the National Agreement.⁴

APO NT urges from the NT Government substantially greater whole-of-government commitment to and accountability for this new way of working, involving leadership across all Ministerial portfolios and departments.

Commitment to a pathway to Treaty

² National Agreement on Closing the Gap, Clause 15 ([weblink](#))

³ [Closing the Gap - Northern Territory Implementation Plan](#)

⁴ Productivity Commission (2023) Review of the National Agreement on Closing the Gap – Draft report ([weblink](#))



APO NT also wishes to acknowledge the historical work and commitment to Treaty from our members.

Treaty-making processes are now officially on the legislative agendas in Victoria, Queensland, South Australia and Tasmania.⁵ As noted by the Commissioner in his final report, “treaty-making in the NT strongly aligns with a swathe of existing commitments made by government in (...) Aboriginal affairs.”⁶ These include Closing the Gap, Local Decision-Making, *Everyone Together* Aboriginal Affairs Strategy, the Barkly Regional Deal, the Aboriginal Justice Agreement, and Voice and the Uluru Statement from the Heart.⁷

APO NT remains disappointed by the NT Government’s response to the Treaty Commissioner’s final report and calls on the NT Government to prioritise the pathway to Treaty, articulated in the final report of the NT Treaty Commissioner.

In the context of the proposals being considered in this inquiry, we note that the Commissioner’s final report recommends the UNDRIP be used as a basis to inform not only Treaty negotiations, but government policy more generally.⁸ We recommend the Committee read APO NT’s submission on The Application of the UNDRIP in Australia to the Commonwealth Legal and Constitutional Affairs References Committee, which we have provided as an attachment to this submission.

The Legal and Constitutional Affairs Committee (the Committee) should take into account these large agendas in Aboriginal Affairs and ensure that Aboriginal organisations are given adequate time to consider the impact of both. To this end we request that the Committee undertakes further stakeholder consultation following the receipt of submissions.

Once again, we thank the Committee for the opportunity to contribute to this important inquiry and look forward to continuing the conversation.

Regards,

2 October 2023

Dr John Paterson, APO NT Convenor on behalf of the APO NT Governing Group.

⁵ Northern Territory Treaty Commission, Final Report, 29 June 2022, p.15

⁶ Ibid. p.19

⁷ Ibid.

⁸ Northern Territory Treaty Commission | Final Report p 31