



**SUBMISSION ON THE DRAFT DATA AVAILABILITY
AND TRANSPARENCY CODE 2022**

September 2022

ABOUT US

For more than seven years Empowered Communities has pursued new ways of working on the ground with government. Empowered Communities has pursued transformational reforms that aim to empower communities by empowering people. It is Indigenous people themselves, those whose lives are directly affected, that should be empowered to have greater influence and control over the decisions that impact on their lives.

We are proud of the progress we have made since Indigenous leaders from eight remote, regional and urban areas first came together. We identified a common vision and proposed a comprehensive set of transformational reforms to get us there. We achieved broad bipartisan political support for Empowered Communities at the federal level and secured the government's agreement to work on the regional part of our agenda. We continue to work hard on implementation.

We have had the Ngarrindjeri Ruwe and Far West Coast regions in South Australia join the initiative. We are optimistic about meeting the implementation challenges ahead given how much we have achieved together since 2013 and given the opportunities that lie ahead with the Voice.



OUR VISION

“We want for our children the same opportunities and choices other Australians expect for their children. We want them to succeed in mainstream Australia, achieving educational success, prospering in the economy and living long, safe and healthy lives. We want them to retain their distinct cultures, languages and identities as peoples and to be recognised as Indigenous Australians.

KEY CONCERNS ABOUT THE DATA CODE

We are pleased to have the opportunity to make a submission on the Data Availability and Transparency Code 2022 (the draft Data Code). The draft Data Code is legalistic, and we do not pretend to properly understand its impact on us. As First Nations people working hard to lead practical and pragmatic reforms in partnership with government at the local and regional level under Empowered Communities, and in the future under the Voice arrangements, our data needs are critical to enabling us to play a leading role in partnership with government to overcome entrenched disadvantage of our people and places. We have been given conflicting advice from our government partners about the likely impact of the Data Code for us.

We wish to ensure developments in this area facilitate increased availability and transparency of the data we need to drive change and learn. Despite the promising naming of the “Data Availability and Transparency Code”, it is not clear to us that increasing the availability and transparency of data for people like us will in fact be facilitated by the Data Code. Our preference is that the Data Code should not progress further until suitable advice has been received.

KEY QUESTIONS FOR CLARIFICATION

1. Does the Data Code apply to us?
 - a) If so, is the accreditation process onerous?
 - b) If the Data Code does not apply, or we are not accredited under the Data Code, will it make it even more difficult for us to access data?
2. How will the Data Code enable and empower First Nations people by helping to ensure locally and regionally relevant data is made available as needed to inform our on the ground decision-making, monitoring, adaptation and learning processes?
3. Will it help Indigenous organisations, communities and partnerships to gain:
 - c) improved data availability and transparency?
 - d) simplified and streamlined data sharing arrangements?

We are concerned that the Data Code has been developed largely within an old top-down government control and decision-making mindset. Instead, it must actively ensure data is available to enable the agreed future direction for First Nations people—one of empowerment and shared-decision making at the regional and local level.

The purpose of this submission is to outline our data aspirations and explain how improved availability and transparency of data is essential to us and to the task of tackling entrenched disadvantage across the country in more empowering and effective ways.

THE BIG PICTURE: DATA RELEVANT TO THE TASK OF OVERCOMING INDIGENOUS DISADVANTAGE

Where are we at?

When it comes to data monitoring Aboriginal and Torres Strait Islander disadvantage, there has been an explosion in the high-level data available over recent decades. Nonetheless there has been substantial criticism, and a clear shift is needed under the future directions which have been agreed.

Key data sources include vast amounts of jurisdictional administrative data, Census data and other nationally representative household survey data collected by the Australian Bureau of Statistics (ABS). A key longitudinal data source is the Melbourne Institute's Household, Income and Labour Dynamics in Australia (HILDA), a general population survey that has followed a sample of 17,000 Australians since 2001. Growing up in Australia: the Longitudinal Study of Australian Children (LSAC) is another major study, which has followed the development of 10,000 children and families from all parts of Australia since 2004. The Australian Early Development Census (AEDC) also provides a national census of early childhood development, with a data collection taking place every three years since 2009. Various indexes have also been developed and provide useful tools to assist to measure disadvantage using a range of data, including the ABS Socio-Economic Indexes for Areas (SEIFA), for example.

Specifically for Indigenous people, two significant high-level 'report cards' have been developed and delivered over almost two decades to provide data showing the collective impact of policy and programs at the aggregate level for Australia as a whole, by state and territory, and by remoteness categorisation (e.g., urban, regional, remote and very remote). **The Overcoming Indigenous Disadvantage (OID) reports and Closing the Gap reports aim to be "more than a collection of data" and to be useful as a "practical tool" for government agencies, disadvantaged people and their communities** (SCRGSP 2016: iii and 1.1; SCRGSP 2020). These key reports have continued to evolve over time.

- Since 2003 the Productivity Commission has produced periodic OID reports for the Steering Committee for the Review of Government Service Provision. These reports have provided the country's most comprehensive reporting on Aboriginal and Torres Strait Islander wellbeing to assess how things are tracking (Productivity Commission 2020a; SCRGSP 2020).

The latest 2020 OID report provides the eighth in the series. It reports data for 52 indicators across areas of: governance, leadership and culture; early childhood; education and training; healthy lives; economic participation; home environment; and safe and supportive communities. Data is drawn from a wide range of sources including the Census, National Assessment Program – Literacy and Numeracy (NAPLAN) data, the ABS National Aboriginal and Torres Strait Islander Health Survey and Social Survey (NATSISS), and other administrative data collected by the Commonwealth, states and territories. The 2020 report shows mixed outcomes with some areas of improvement, but not in areas such as justice, mental health, imprisonment, suicide, and self-harm.

The OID has sought to respond to criticism that monitoring efforts have been deficit-based and that the stigmatisation and demoralisation of places or groups may be the unintended consequence (see e.g., COAG 2018; Prosser and Hellenen-Simpson 2020; McCausland 2019). The 2020 edition of the OID report has enhanced its focus on "seeking to identify the significant

strengths of, and sources of wellbeing for, Aboriginal and Torres Strait Islander people” (SCRGSP 2020: 1.1).

- From 2007 to 2020, the Closing the Gap framework has provided prominent monitoring of key aspects of Indigenous disadvantage. Each year the Prime Minister tabled an annual report on seven Closing the Gap targets (a subset of those included in OID reporting).

In 2020, the final Closing the Gap report under the original framework showed progress against the targets was limited, and outcomes were worst in remote and very remote areas. Four of the seven original targets expired without being met. Two of the continuing targets were said to be “on track”. The target to close the gap in life expectancy by 2031 was said not to be “on track” (Australian Government 2020).

In 2020 a process to “refresh” the original Closing the Gap framework concluded with the announcement of a new approach under the National Agreement on Closing the Gap. The substantially revised and updated approach includes expanded outcomes and targets, and a new regime of implementation planning and tracking, accountability and reporting. There are now 18 targets associated with the 17 socioeconomic outcomes across the education, employment, health and wellbeing, justice, safety, housing, land and waters, and languages (Productivity Commission 2021a). The Productivity Commission has established an online Closing the Gap Information Repository including a data dashboard showing progress towards the targets and is now producing an Annual Data Compilation Report to provide a point-in-time snapshot of progress (Productivity Commission 2021a). It is also to complete a comprehensive review of progress every three years, which is to include an examination the factors contributing to progress by drawing on evaluations and other evidence. There are also to be Independent Indigenous-led reviews following each review by the Productivity Commission.

Despite good intentions, the OID and Closing the Gap reports have been criticised for providing little more than “misery indexes” which place “an undue emphasis on cataloguing disadvantage rather than driving change” (Biddle 2014: 8; see also Banks 2013: 18). The OID itself has noted its low level of use by Aboriginal and Torres Strait Islander people (SCRGSP 2017). Altman and Russell (2012: 17) argue Closing the Gap reporting has had the effect of rendering “deeply entrenched development problem into a hyper technical monitoring exercise”. **The reality is these readily available reports of high-level data do little to inform our decision making or help us learn over time. They assume top-down decision-making and are in fact of limited relevance and usefulness on the ground.**

In addition to high-level monitoring reporting under the OID and Closing the Gap, data and monitoring information are also routinely collected and reported at the individual program-level or service-level. The ubiquitous results-based management paradigm ensures that under funding contracts, service providers must provide monitoring information against specified KPIs and budgets at regular intervals throughout the program to government as the funder and the policy maker. The narrow focus of such monitoring, however, is compliance and upward accountability (Moran et al. 2014, 2016; QPC 2017: 229). **Such program monitoring information is generally only provided to funders and is rarely made any more broadly available.**

Where are we heading?

As Indigenous people, we need data to inform our on-the-ground decision-making and learning in real time. **Place-based data, however, has continued to be largely unavailable in our communities and regions.**¹ There is high demand for improvements to make such data available to inform

¹ There have been some exceptions. For example, for a period in the wake of recommendations made by Tony Fitzgerald’s 2001 Cape York Justice Study, Queensland was exceptional among the states and territories in that

decision-making and learning, which is to be increasingly led by those on the ground. There is now widespread recognition that every community and region are different, and will have different priorities, action, and investment needs. **Empowering approaches demand that on the ground decision-making and learning must be supported by accurate community and regional data.**

Increasingly there are individual projects emerging that have a strong focus on making relevant data available to local and regional actors involved in driving efforts to overcome disadvantage. In addition to the efforts of individual projects, there are also increasing demands for more systematic changes to be made to support the shift to ensure more operationally relevant data is made available. This demand is reflected, for example, in:

- The 2020 OID report which states “Developing data sets that can be used by regions and local communities to identify local needs and improve decision-making is a key future development for reporting” (SCRGSP 2020: 7).
- The National Agreement for Closing the Gap, released in July 2020, which made an important step forward in establishing as key priorities both shared decision-making and the need to improve data access and transparency. It includes a focus on improving access to data at the local and regional level so that Aboriginal and Torres Strait Islander people “can set and monitor the implementation of efforts to Close the Gap, their priorities and drive their own development”.

Another very significant reform proposal is also highly relevant—the proposal to put in place a new foundational partnership between Australia’s First Nations and governments by enshrining the requirement for the existence of an ‘Indigenous Voice’ in the Australian Constitution. The 2021 *Indigenous Voice Co-Design Process: Final Report to the Australian Government* highlights that a shift to a more empowering partnership necessitates changes in “Transparency and Accountability” and “Data and Evidence-Based Decision Making” at the local and regional levels (Commonwealth of Australia 2021: 52-53).

According to the Co-Design Report, a partnership based on Transparency and Accountability at the local and regional level means governments and First Nations people “must adhere to clear protocols and share responsibility and accountability, including downwards to communities”, which:

- is critical to the success of partnerships
- recognises responsibility for the partnership and associated outcomes is shared by all partners
- is essential legitimacy and long-term sustainability of the arrangements.

In terms of implementation of this aspect the report states the model will ensure:

- all parties adhere to protocols supporting transparency and accountability (e.g., public reporting, monitoring and evaluation)
- arrangements support shared accountability and responsibility, including downward to the community level
- data and information sharing protocols are agreed by all parties (Commonwealth of Australia 2021: 52).

it provided access to regular monitoring information at the community level for its discrete Indigenous communities. Fitzgerald (2001: 99, 104 & 222) argued these data are vital to understanding and assessing levels of harm, and for monitoring any efforts to improve the situation. From 2012, however, Queensland’s Quarterly Reports on indicators of harm in discrete communities ceased, and later Annual Reports were also made less available (see CYI 2013).

According to the Co-Design Report, a partnership at the local and regional level in terms of Data and Evidence-Based Decision-Making means “Data is shared between governments and communities to enable evidence-based advice and shared decision-making. Communities are supported to collect and manage their own data”, which:

- recognises effective decision-making requires access to meaningful data and evidence
- provides for local and regional decision-making to be informed by relevant data, research and best practice evidence from Australia and internationally.

In terms of implementation of this aspect the report states the model will ensure:

- First Nations people at the local and regional level have access to the data and evidence they need to provide informed advice and make informed decisions
- governments and communities collaborate and share data collection and analysis expertise
- communities are supported to build their data capability
- regional planning activities include robust data, monitoring and evaluation strategies co-designed by communities and governments.
- government systems support data and information sharing
- government data collection must be informed by local and regional priorities, so data is meaningful to communities and shared in user-friendly, flexible formats
- First Nations people at the local and regional level be supported to undertake and manage their own data collection and analysis activities
- strategies to enable real-time learning and adaptation are supported by the partnership (Commonwealth of Australia 2021: 53).

EMPOWERED COMMUNITIES: LESSONS LEARNT

Our aspirations have major implications for data

The Empowered Communities (EC) reform agenda is an ambitious one. EC’s thinking and practice has big implications for data and requires a transformative approach as we need locally and regionally relevant data for decision-making, monitoring, evaluation and learning in real-time.

The key foundational document for EC is the 2015 *Design Report*, in which the original EC collaboration of Indigenous leaders from eight regions put forward our proposals for the new approach to government. EC asserts top-down government-led decision making cannot Close the Gap. It is the First Nations people in-place at the local and regional level who are in it for the long haul. It is our decision-making and learning as individuals, community leaders and organisations that must be central, and must continue to drive ongoing monitoring, evaluation and learning efforts to inform Indigenous-led, community-led decision-making regarding adaption and evolution of effective and empowering approaches to the development of our people and places.

In addition to its focus on putting in place an empowering partnership model, the EC Design Report argues that to overcome complex and entrenched disadvantage in-place, **‘learning as you go’ is central**. We proposed embedding “adaptive practice at the heart of delivery and the monitoring and evaluation framework is vital so that lessons can be learned at every point and necessary refinements made quickly” (2015: 85). The reality is no one truly knows how to overcome the extreme disadvantage that afflicts Indigenous communities. Anyone who says they have ‘the answer’ is peddling a falsehood.

There is little evidence to tell us how we might take an empowering approach at the local level to effectively tackle some of our toughest problems including: intergenerational joblessness and welfare dependency where this has impacted children, families and whole communities; breaking cycles of family violence, child abuse and neglect where these issues have become endemic; and first halting, then reversing, the concentrated upwards spiralling of youth detention and incarceration.

What we know is that building things that work must often occur in place, by starting with and maintaining a high level of ownership by the people of that place, and through continuing to build on elements of success. Locally devised and led, community-based interventions are essential. We must enable our people at the local and regional level to learn in real-time. As development interventions become increasingly complex, adaptive management—i.e., iterative processes of trials, errors, learning and course corrections—is necessary to ensure success. As learning and adaptation are two sides of the same coin, active, ongoing and experiential (and experimental) learning must occur to provide iterative feedback of lessons into new solutions.

The cornerstone of effective learning is the creation, gathering, accumulation, interpretation and use of data and evidence. It is only through data and evidence that those leading and managing adaptive programs can really learn whether they should be adapting and in what ways.

Upfront, the EC Design report states implementation of the new approach will “take time to ‘get it right’, mistakes will occur, directions will need to be corrected and adaptive practice is essential so that the partners can learn as they go”.

Delivery, supported by the monitoring and evaluation system, should be flexible enough for all involved to learn from successes and failures and so provide more useful information to help Indigenous leaders, governments and other service providers to drive change effectively and efficiently. This requires building a constant capacity for learning and adapting over a lengthy process of incremental learning and cyclical design, including rechanneling funding efficiently where required. (EC 2015: 90)

The EC Design Report (2015: 85-6) draws on the Deliverology approach pioneered by Sir Michael Barber under Prime Minister Tony Blair’s government in the United Kingdom, which demonstrated results in effectively driving complex reform agendas, and has been further developed by Barber with McKinsey & Company. Deliverology places a heavy emphasis on the use of data and targets to drive planning and implementation, and the flexibility to change and adapt in response to the information available.

The EC Design Report (2015: 92) states we would focus on “learning as we go to generate implementation and delivery data that helps the delivery units track performance, drive delivery and support innovation. This is a move away from the traditional evaluation methodology.” Baseline data was to be established at the outset to inform measurable and time-bound targets (both ambitious and realistic), and trajectories to create a tight link between planned interventions and expected outcomes. Under EC it was planned to develop a framework of leading indicators to provide measures of progress drawing on existing indicator frameworks (such as the OID) but applying this at the local and regional levels, and incorporating locally developed indicators, and indicators developed for areas of the EC reform agenda such as improved policy and service delivery coherence, and improved financial arrangements. Baseline data therefore would “provide powerful information at the local and regional levels to Indigenous leaders, governments and other stakeholders who are working for change” (2015: 95).

The EC Design Report (2015: 95) envisaged a data-driven system for implementation would involve regular monitoring events and meetings involving the EC Backbone team in each region, and frontline workers to “assess what is working, what is not working, and the adjustments that may be necessary to improve the approaches being taken. These regular monitoring meetings will support adaptive practice”. Under the empowerment approach it was said Indigenous reform leaders must take responsibility for improving outcomes and “This includes when the data show that things are not working as was hoped”. The report proposes decision-making about improvements and adaptations to policy, programs and services would involve the partnership with government, and that information-sharing with stakeholders about successes and challenges would occur.

Our ability to achieve our aspirations has been limited

Putting our commitment to a new approach to support learning by doing and adaptive management into practice in partnership with government has been a substantial challenge. To some extent we have lacked the necessary support and/or capabilities to ensure success in this critical aspect. Despite the challenges, we have preserved and are getting better at this aspect over time. Lessons have been learnt, including in relation to data, that are relevant to the future.

Under EC, we hoped we would be able to plan and make development decisions at a regional level, with visibility of the statistical data at this level, as well information about services and funding flows into the region. EC was able to work with the Australian Government to progress this, and while change has taken far longer than was anticipated and despite only achieving a small fraction of its original ambition in this area, EC has achieved some important ‘firsts’.

Some regional level program and funding data has been made available to the EC regions to enable local decision making about expiring grants under the EC Joint Decision-Making model.² Under EC, we have also achieved some improvements in access to data at the regional level. We continue to build our shared knowledge and capacity for identifying key data sources and working with government agencies and other data custodians to support evidence-based decision making through provision of useable data sets.

Outside of some important areas of success, EC encountered very substantial challenges in harnessing data and evidence to drive learning by doing and adaptation in the way envisaged in the EC Design Report. Critically, EC was unable to establish the baseline data needed to put in place clear targets and trajectories which under its data-driven delivery strategy was to enable adaptive decisions to be made. Key ongoing challenges in the establishment of baseline data include access to administrative data, including lack of support from State and Territory agencies in accessing state held data sets.

The early stages of implementation did not unfold as EC anticipated in terms of the collaboration with government to develop more detailed plans for implementation of its proposed monitoring and evaluation approach for learning and adaptive practice outlined in the EC Design Report. Nor were all the proposals in the EC Design report regarding how this aspect would be supported with personnel and expertise able to be implemented. For example, to support the paradigm shift

² Together with government, we have implemented ground-breaking reforms to improve the productivity of the investment coming into our regions to Close the Gap. Rather than the business-as-usual model which sees far-off governments alone decide the allocation of resources in our regions, we have established a Joint Decision-Making process through which local people apply on the ground knowledge to service delivery solutions. The Australian Government acknowledges this Joint Decision-Making process has proven more effective than government acting alone.

envisaged, the EC Design Report proposed that substantial monitoring and evaluation capacity and capability building would be required across the EC system. Although the Australian Government has supported the implementation of EC at the regional level, the model proposed for implementing learning while doing and adaptive management was only supported in part. Funding was provided from the outset for scaled down implementation of this aspect.

While we have not necessarily realised our original goal, we continue to move toward it. Developing and implementing more effective and empowering monitoring, evaluation and learning has been an important focus for EC centrally and for each of the regional Backbones. While other multi region approaches use a universal set of indicators (with some choice) to map to a central theory of change, we have taken more of a community development, building from the ground up with variations across regions or otherwise ensuring the right approach for their individual situations. In essence we have been building capacity to monitor, evaluate, learn and adapt from the inside. Regions have worked to set their own indicators, meaning they have to build the skills to do this.

Some EC regions have developed approaches to data access for informed decision making and so the region can tell its own stories about their needs, priorities and progress.

The Central Coast NSW EC region has taken a ground up approach to accessing data for decision making, including by convening of the Ngiyany Wayama Data Network ('We All Tell') to build capacity of Aboriginal people to engage with, collect and use data for the benefit of the community and to highlight strengths rather than just deficits. The Barang Regional Alliance of the Central Coast, NSW states:

Through EC and Local Decision Making in our region, we've been able to access and govern data at a place-based level like never before. We've launched the Ngiyang Wayama Data Network and we're now embedding community derived indicators into our reporting frameworks.

The Central Coast Community has determined a set of success measures that reflect our priorities and are community driven and strengths based. Over time this will build a picture of what is contributing to change and we can unpick areas that need adapting or reassessing. Organisations across the Central Coast have worked collectively to contribute to the measurement of success and we now have data sharing mechanisms in place.

The Goulbourn Murray Kaiela Algabonya Data Unit has been established to provide a locally driven community data hub as an important means to empower the region's Indigenous voices.

Conclusion

In the future the kind of access and use of data that has been sought by EC will be required on a far larger (and more efficient) scale across the nation. Improving data availability and transparency is foundational under the future directions agreed to Close the Gap and under the Indigenous Voice proposals. To address entrenched disadvantage the right statistical and administrative data must be more available to First Nations organisations, communities and partnerships at the local and regional level data to provide input into decision-making, monitoring, learning and adaptive practice. Making the shift required needs an authorising policy and governance environment that facilitates easier data-sharing.

Given EC has struggled in this area for more than seven years to make progress, we would like others to be able to avoid some of the data difficulties we have encountered. To enable empowering and effective approaches to overcoming entrenched disadvantage, the Data Code must help facilitate the data availability and transparency needed, rather than make it even more complex or difficult.