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**Response to Select Committee on
Measuring Outcomes for First Nations
Communities inquiry into the current
regression of the Closing the Gap
targets on the rates of suicide, the
number of children in out-of-home
care, adult incarceration and the
number of children commencing
school who are developmentally on
track**

Southern Aboriginal Corporation
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Introduction

Southern Aboriginal Corporation (SAC) welcomes the opportunity to provide a submission to the Select Committee on Measuring Outcomes for First Nations Communities inquiry into the current regression of the Closing the Gap targets on the rates of suicide, the number of children in out-of-home care, adult incarceration and the number of children commencing school who are developmentally on track.

SAC is a leading Aboriginal Community Controlled Organisation (ACCO) operating across the Great Southern, Southwest and Wheatbelt regions of Western Australia (WA). SAC offices are located in Albany, Katanning, Bunbury and Narrogin, from which services are delivered to 17 regional and remote locations. SAC supports the unique and evolving needs of our local communities by promoting Noongar social and cultural values and implementing a culturally informed, trauma integrated healing approach.

SAC has a unique understanding of the complex context in which Aboriginal children are disproportionately removed from their families and placed in the out-of-home care system; our practice is informed by what we know about the centuries of discrimination experienced by Aboriginal people that continues to manifest in the ongoing widespread removal of children from their families in contemporary society. We also know that displacement of Aboriginal children from their families is a significant causal factor in the overrepresentation of Aboriginal children in the criminal justice system, and subsequent overrepresentation of Aboriginal adults in prison. Per SNAICC – National Voice for Our Children:

...there are risks associated with the decision to remove a child from their family – risks that are seldom considered when those decisions are made. This system ultimately steals the future of many of our children, disconnecting them from their families, communities, culture and Country – those things that give us strength and belonging. Too frequently, experiences of removal lead to criminalisation and incarceration.¹

Every day, SAC works with clients who continue to be displaced and discriminated against by the systems that have displaced Aboriginal people from their land, their culture and their communities since the time of colonisation.

SAC seeks to provide feedback to the Select Committee specifically on the regression of the Closing the Gap target on the number of children in out-of-home care, highlighting SAC's experience as a service provider for Aboriginal families engaged with government systems and processes that fail to tangibly invest in culturally safe, appropriate and intensive family supports designed to empower strong Aboriginal families to remain together with their children in their homes. As an Aboriginal Community Controlled Organisation, we have a particular vested interest in promoting improved access to family safety services and achieving progress against State and Federal Government obligations under the National Agreement on Closing the Gap.

¹ SNAICC – National Voice for our Children, 'Family Matters Report 2024', 2024, <https://www.snaicc.org.au/wp-content/uploads/2024/11/241119-Family-Matters-Report-2024.pdf>.

Response to Terms

Target 12: By 2031, reduce the rate of over-representation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 percent

a. The ways in which targets are funded

In 2021, the WA Government's Closing the Gap Implementation Plan 2023-2025 revealed that achieving Target 12 was considered highly aspirational, noting that the rate of Aboriginal children in out-of-home care increased in the recent decade and that WA needed to turn this trend around before working towards the national target.² In 2024, the WA Annual Report on Closing the Gap revealed that the rate of Aboriginal and Torres Strait Islander children in out-of-home care continued to exceed the national average and that a key action of the WA Government's Closing the Gap Implementation Plan, the development of the *10 Year Roadmap to Reduce the Number of Aboriginal Children in Care*, had a timeframe still to be determined.

The lack of progress by the WA Government in achieving its obligations under the National Agreement on Closing the Gap reflects, in SAC's opinion, a lack of tangible investment by the government in best practice, culturally safe and trauma informed family services designed to empower Aboriginal families to stay safe and together, in their own homes. Since 2013, SAC has delivered the Family Violence Prevention Legal Service (FVPLS) in the Great Southern, South West and Wheatbelt regions of WA, funded by the Federal Government via the National Indigenous Australians Agency. The FVPLS unit provides legal assistance and social support services within an integrated service delivery model to Aboriginal people experiencing or at risk of family, domestic and sexual violence. The unit supports clients across four key priority areas of law, including care and protection, family law, criminal injuries compensation and family violence restraining orders.

As the sole FVPLS unit operating in south western WA with the purpose of supporting Aboriginal families as they engage with the care and protection system, SAC has a deep understanding of the complex contexts in which Aboriginal people become engaged with the Department of Communities, the government agency responsible for providing child protection services, as well as best practice prevention and response mechanisms to ensure Aboriginal child safety in their families, with their communities and connected to their cultures. SAC seeks to engage with clients upon first contact with the Department of Communities to minimise the potential for further harm to the client and their child, reduce the potential for police, justice and/or child protection involvement in the future, and ensure that children are kept safe at home.

And yet, in the 11 years since the FVPLS commenced service delivery, the program has been subject to numerous funding cuts and administrative changes that have negatively impacted on the service delivery capacity of the unit. Until 2025, the three FVPLS units in Western Australia have been consistently excluded from any funding distributed by the WA Department of Justice through the National Legal Assistance Program, including where eligibility for that funding required registration as a service provider through Community Legal Western Australia, the peak body for community legal services in WA, and which the three FVPLS units are members of. SAC was, therefore, not surprised that the 2022 WA Legal Needs Report, which documented research commissioned by the WA Department of Justice on the topic of unmet legal need, referred to as the 'statistical inference of need for legal assistance which is not serviced according to observable provider data', concluded that for

² Government of Western Australia, 'Closing the Gap Jurisdictional Implementation Plan', 2021, https://www.wa.gov.au/system/files/2021-09/Implementation%20Plan%20-%20CtG_1.pdf.

every person with a potential need of legal assistance in child protection matters, there were approximately 0.005 weighted services delivered.³

Time and time again, SAC has communicated to State and Federal Government funding bodies the funding models that work well for Aboriginal Community Controlled Organisations are those which are long-term, sustainable and predictable. To date, funding arrangements which lack these qualities have created uncertainty for the FVPLS units across Australia, including SAC, and negatively impacted service delivery capacity and sustainability. In the last financial year, we were at serious risk of losing two solicitors from our FVPLS unit, meaning our service would drop from 5 to 3 legal staff formally servicing 3 regions of Western Australia, due to cessation of short-term funding and a lack of willingness from government to work with our service to ensure the continuity of those roles. Due only to the housing enterprise run by our corporation could we find funds to retain those solicitors, who still remain on short-term contracts.

We highlight comments from the Productivity Commission's Review of the National Agreement on Closing the Gap, which determined that the approach to funding service delivery under Closing the Gap to date has:

...not always enabled ACCOs to design services and KPIs that align with Aboriginal and Torres Strait Islander community priorities and measures of success...

The Indigenous Education Consultative Meeting told the Commission that the lifting and shifting of non-Indigenous services, or government designed programmatic responses, to ACCOs creates an environment where meeting these KPIs are prioritised over the delivery of genuine outcomes.⁴

In this context, we also purport that substantial allocation of funding to the Department of Communities in efforts to reduce the rate of over-representation of Aboriginal children in the out-of-home care system are fundamentally flawed; at its core, the integration of care and protection services within the same agency that is responsible for removing children from their families is a defective approach. In reality, it is our experience that the Department of Communities removes Aboriginal children from their families with little effort to work with families to ensure children can remain safely at home, displaces Aboriginal children from their communities and their cultures, and fails to provide adequate oversight of the safety and development of children in their care.

In 2024, we welcomed a significant financial uplift in the FVPLS sector as part of the new National Access to Justice Partnership (NAJP), which will provide \$367 million over five years from June 2025 to be distributed across the 16 FVPLS units in Australia. This commitment represents the kind of tangible, longer-term funding investments that are essential to ensuring the sustainability of best practice, culturally safe and trauma informed legal assistance services for Aboriginal families and their children. A genuine commitment to addressing the regression of Target 12 and reducing the rate of over-representation of Aboriginal and Torres Strait Islander children will require targeted funding for services such as the FVPLS units to intensively support Aboriginal families to prevent their engagement

³ ACIL Allen report to Government of Western Australia, Department of Justice, 'Assessment of the Current Legal Needs in Western Australia: Final Report', 2022, <https://www.wa.gov.au/system/files/2022-12/WA-Legal-Needs-SummaryReport.pdf>.

⁴ Productivity Commission, 'Review of the National Agreement on Closing the Gap', 2024, <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>.

with the care and protection system in the first place, and to subsequently support Aboriginal families to reduce the duration of time children spend outside of their family once removed from their care.

b. The ways in which targets are measured and evaluated

It is our experience that the government approach to funding services implicitly requires service providers to tailor service delivery models to service designs and associated performance indicators imposed by the relevant funding agency and often, those models and indicators do not reflect Aboriginal notions of wellbeing or measures of success that represent tangible, positive impacts for local communities. Per research by the Australian National University into measuring and analysing success for Aboriginal and Torres Strait Islander Australians:

Although relative outcomes for the Indigenous population have improved for some of the targets, overall there has been a failure to achieve virtually all of the targets...

At the core of this discussion is how to define 'success' for the Aboriginal and Torres Strait Islander population and who decides on this definition. Inevitably, the answer will depend on who is answering the question. Often, how governments answer this question will differ from how Indigenous communities answer the question.⁵

In a FVPLS context, SAC has been required to allocate substantial time and resourcing, which it is not funded for, to the collection and consolidation of performance data that often fails to reflect the comprehensive nature of the FVPLS unit's service delivery. KPIs relating to client understanding of their rights and satisfaction with services are unable to reflect the full scope of integrated prevention, response and healing assistance provided to victims of family and domestic violence to comprehensively address their legal and non-legal support needs. Only recently has SAC commenced being able to provide case studies as part of the reporting process to provide a holistic explanation of the scope of services provided by the FVPLS unit and their critical impact on the overall safety and wellbeing of clients and their families.

We further highlight the findings of the Productivity Commission's Review of the National Agreement on Closing the Gap, which determined that evaluation of the targets and outcomes of the Agreement are failing to centre Aboriginal and Torres Strait Islander people, perspectives, priorities and knowledge:

If outcomes are to improve... this is about valuing Aboriginal and Torres Strait Islander knowledges, cultural beliefs and practices, and building capability among Aboriginal and Torres Strait Islander evaluators, organisations and communities. And it is about non-Indigenous evaluators having the necessary knowledge, experience and awareness of their own biases to work in partnership with, and to draw on the knowledges of, Aboriginal and Torres Strait Islander people.⁶

We strongly support government agencies working with service providers to determine best practice approaches to collecting, reporting and evaluating program performance data to ensure that success to government in achieving progress against the Closing the Gap targets reflects what success to communities looks like, and that reporting on outputs does not mean losing sight of outcomes. We

⁵ Australian National University, Centre for Aboriginal Economic Policy Research, 'Working Paper No. 122/2017', 2017,

https://caepr.cass.anu.edu.au/sites/default/files/docs/2024/11/Working_Paper_122_2017.pdf.

⁶ Productivity Commission, 'Review of the National Agreement on Closing the Gap', 2024,

<https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>.

note that the 2019 Retrospective Review of Closing the Gap (prior to the 'refreshed' Partnership Agreement on Closing the Gap 2019-2029) identified that community and stakeholder perception of best practice in setting, achieving and evaluating targets was to have targets set by local communities, who know the social, cultural and economic context in which services are delivered.⁷ In this context, with targets already set, we purport that performance reporting requirements for services funded with the objective of achieving progress against the National Agreement on Closing the Gap should be uniquely tailored to the local context of each service provider, who best knows their community, and represent tangible positive impacts for their target cohort of clients.

This approach should be conducive to achieving better outcomes across various Closing the Gap Targets, noting the complex relationship between Closing the Gap targets related to overrepresentation of Aboriginal children in the child protection system, criminal justice system, family and household safety and rates of suicide, and other indicators of social and emotional wellbeing for Aboriginal people.

c. The priority of the targets in the National Partnership Agreement and progress under the National Priority reforms

In the specific context of providing government funded legal assistance services to Aboriginal people in Western Australia, we fail to see how the elements of shared decision making, strengthening the ACCO sector, transforming government operations and shared access to data articulated in the National Agreement on Closing the Gap have been put into practice. The National Agreement notes that the elements of strong community-controlled sectors are:

1. Sustained capacity building and investment;
2. A dedicated and identified Aboriginal and Torres Strait Islander workforce;
3. Community controlled organisations supported by a Peak Body, which has strong governance and policy development and influencing capacity; and
4. Community controlled organisations with dedicated, reliable and consistent funding models designed to suite the types of services required by communities.

Per our response to point a. above, governments have generally failed to fulfil their commitment to Priority Reform Two by providing inadequate funding to organisations within the FVPLS sector, and as a consequence, the overrepresentation of Aboriginal children in out of home care due to concerns relating to family and domestic violence has continued and worsened.

With regard to shared decision making and transforming government operations, it has been SAC's experience that there is an unwillingness from both State and Federal Government agencies to respect the expertise of ACCO service providers and their unique understanding of community need when service planning. In 2024, for example, SAC approached the National Indigenous Australians Agency (NIAA) and the Department of Justice (DOJ) with a solution to formally address the gap in FVPLS services, including care and protection matters, in the Peel region of WA, which borders the Wheatbelt and South West regions serviced by SAC. FVPLS program data indicates that 12.9% of SAC's clients have at some point been located in Peel over the last 2 years, and the region is currently only serviced through an outreach model by the Perth based FVPLS unit. Noting our pending transition to funding arrangements from NIAA to the DOJ under the new National Access to Justice Partnership from 1 July 2025, SAC sought to use Pay Parity funds already allocated by NIAA to SAC for use before the end of

⁷ Commonwealth of Australia, 'Closing the Gap Retrospective Review', 2019, <https://www.niaa.gov.au/sites/default/files/documents/publications/closing-gap-retrospective-review-accessible.pdf>.

the 2024/25 financial year to bridge the gap in services and formalise existing service delivery in the region. Despite repeated attempts by SAC to coordinate discussion about the proposed solution with NIAA and DOJ, on the advice on NIAA, SAC has been unable to convene a meeting with the government parties.

This is just one example of government, at both Federal and State levels, failing to implement the systemic and structural changes in their work that are critical to genuinely sharing decision making, strengthening the ACCO sector and transforming government operations. We are particularly disappointed by this approach from the State Government, noting the WA Government's Whole-of-Government ACCO Strategy for Community Services to Aboriginal People requires that where government agencies receive unsolicited ACCO-led service proposals that are distinctly place-based and designed to meet the needs and aspirations of Aboriginal service users, they should:

...examine how the proposal complements existing services, matches service user needs and aspirations and delivers value for money, giving due consideration to the long-term outcomes that could be achieved by the proposal.⁸

d. The degree to which current measurements and targets reflect the strengths of First Nations cultures, as opposed to an emphasis on deficit and lack

There is, in SAC's view, an inherent emphasis on deficit and lack in the National Agreement on Closing the Gap, due to its focus on the gap in wellbeing. We refer to the NSW Government Department of Communities and Justice presentation on Ngaramanala: Aboriginal Knowledge Program, which identified that in the context of Indigenous Data Sovereignty and Indigenous Data Governance, a focus on difference, disparity, disadvantage, dysfunction and deprivation (5Ds) has led to the deficit narrative which has harmed Aboriginal people for generations. In this context, the Department provided examples of government's concluding that:

- 'Aboriginal children are better off with non-Aboriginal families' rather than 'Aboriginal children need to be raised with cultural permanency; wellbeing for Aboriginal children is correlated with cultural connection'.
- 'Being Aboriginal is a risk factor' rather than 'Protective abilities and strengths are embedded in Aboriginal culture; belonging to culture creates resilience leading to better social, emotional and physical health outcomes'.
- 'Educational outcomes for Aboriginal students are significantly lower than for their non-Aboriginal counterparts' rather than 'Australian past policies of excluding Aboriginal people from education has caused harm, which still impacts Aboriginal students today'.
- 'Aboriginal people are more likely to offend and end up in prison than non-Aboriginal people' rather than 'The over surveillance of Aboriginal people leads to a higher likelihood of involvement in the criminal justice system'.⁹

Per the Productivity Commission's Review of the National Agreement, the absence of the principles of Indigenous Data Sovereignty from the Agreement is significant:

⁸ Government of Western Australia, 'Whole-of-Government Aboriginal Community Controlled Organisation (ACCO) Strategy for Community Services to Aboriginal People', 2024, <https://www.wa.gov.au/system/files/2024-05/accostrategy.pdf>.

⁹ Government of NSW, 'Family and Community Services Insight, Analysis and Research: Ngaramanala – Aboriginal Knowledge Program, Respond to Indigenous Data Sovereignty and Indigenous Data Governance', 2023, <https://dcj.nsw.gov.au/documents/about-us/facsiar/research-seminars/past-seminars/2023/Responding-to-IDS-and-IDG-slides.pdf>.

Indigenous Data Sovereignty (IDS) requires data that is protective and respects individual and collective interests. This requires governance mechanisms that ensure data is ethical, representative and beneficial. The absence of this element of IDS in the Agreement is significant given the overabundance of data that focuses on Indigenous 'difference, disparity, disadvantage, dysfunction and deprivation' which, as commonly presented in aggregate forms, implies deficit as a population trait.

This is problematic, and can ultimately obstruct the other outcomes under the Agreement, because it can shape and distort how governments, media and the wider public 'see' Aboriginal and Torres Strait Islander people.

Indigenous Data Governance has the potential to disrupt this process through practices that provide Aboriginal and Torres Strait Islander people with the power to refute such narratives and to tell their own stories.¹⁰

We consider that this deficit approach is partly reflected in the Target 12 narrative, which fails to include any focus in the contextual information component of the Target on building on and learning from the strengths and resilience that already exist within Aboriginal families and communities, to empower Aboriginal families to ensure that children can remain safe at home in their communities. This appears to perpetuate a target setting and monitoring approach by government that continues to focus on the needs of government rather than the aspirations of Aboriginal people, and contributes to a narrative that Aboriginal people themselves are incapable of keeping their children safe.

It is, in our perspective, critical that measurement of progress in achieving the targets of the National Agreement is done so in a way that ensures service provider data is able to be contextualised and disaggregated at local levels that are meaningful to Aboriginal communities. Collection of data must reflect Aboriginal priorities, values and culture, and reinforce rather than restrict community goals and ambitions. This is particularly important in a regional and remote service delivery context; a complex understanding of regional variation is critical to appropriately understanding the impact and depth of service delivery in regional and remote locations such as those serviced by SAC. It is insufficient to apply a nationally uniform approach to target setting which, per the Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University, "assumes that aspirations and the determinants of wellbeing are unvarying for Indigenous people in all parts of the country".¹¹

We note that construction of indicators for aggregations of Indigenous people below the national or state/territory level is complex; however, as a best practice, we refer to CAEPR commentary as follows:

Using purely geographic measures, there are many options for constructing indicators, with census data (for example) available at three levels – Indigenous Regions (the least disaggregated), Indigenous Areas and Indigenous Localities (the most disaggregated). It is also possible to construct customised geographics building up from Mesh Blocks

¹⁰ Productivity Commission, 'Review of the National Agreement on Closing the Gap', 2024, <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>.

¹¹ Australian National University, Centre for Aboriginal Economic Policy Research, 'Working Paper No. 122/2017', 2017, https://caepr.cass.anu.edu.au/sites/default/files/docs/2024/11/Working_Paper_122_2017.pdf.

or Statistical Area Level 1 boundaries. Administrative datasets that are geocoded can also be aggregated to similar structures.¹²

e. The possibility of incorporating broad ideas about wellness into measurements, with a view to promoting mental, physical and spiritual health and wellbeing

We acknowledge the inclusion of proposed options to measure and report on Target 12 within the National Agreement, including measures of culturally competent child protection responses; the proportion of children and families accessing family support services; and self-reported perceptions of safety and wellbeing for children in out-of-home care. We argue that the incorporation of Aboriginal cultural beliefs, practices and determinants of wellbeing alongside social determinants is necessary to ensure that the Closing the Gap targets do not lose sight of tangible outcomes for community in the pursuit of outputs for government.

Per previous comments, target setting and subsequent measurements of success in achieving progress against the Closing the Gap must reflect what success and progress looks like to the communities' receiving services. This requires a commitment from governments to working with Aboriginal Community Controlled Organisations to positively engage Aboriginal communities to ensure that service planning, delivery and data collection reflects local priorities. This has been termed a "participatory approach" to target setting and measurement:

In this approach, success is defined by Indigenous people themselves. Here, individuals, families or communities affected by an intervention are surveyed or interviewed to identify local priorities and trade-offs that then form the basis of outcomes or targets against which success is measured.¹³

We note that the Productivity Commission's Review of the National Agreement suggested that in order to enable stronger data governance arrangements to enable tracking of progress under the Agreement, an organisation or entity with dedicated resourcing and staffing to lead data development could be appointed.¹⁴ If such an entity were appointed to lead data development work, we recommend that it must have the expertise to work with service providers such as ACCOs to collect data that reflects Indigenous priorities and reinforce, rather than restrict, community goals and ambitions. The entity must also have the skills and capabilities to collect data about progress under the Agreement in a way that prioritises Indigenous Data Sovereignty, protects data integrity, supports Indigenous leadership in decision making, and recognises Indigenous interests in relation to data.

f. Opportunities for building on and expanding the current Closing the Gap framework

Per CAEPR, "a policy framework built around the Closing the Gap targets should ideally take into account what affects an individual's chances of achieving those targets."¹⁵ Current Closing the Gap

¹² Australian National University, Centre for Aboriginal Economic Policy Research, 'Working Paper No. 122/2017', 2017,

https://caepr.cass.anu.edu.au/sites/default/files/docs/2024/11/Working_Paper_122_2017.pdf.

¹³ Australian National University, Centre for Aboriginal Economic Policy Research, 'Working Paper No. 122/2017', 2017,

https://caepr.cass.anu.edu.au/sites/default/files/docs/2024/11/Working_Paper_122_2017.pdf.

¹⁴ Productivity Commission, 'Review of the National Agreement on Closing the Gap', 2024,

<https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>.

¹⁵ Australian National University, Centre for Aboriginal Economic Policy Research, 'Working Paper No. 122/2017', 2017,

https://caepr.cass.anu.edu.au/sites/default/files/docs/2024/11/Working_Paper_122_2017.pdf.

targets are largely focused on Indigenous outcomes relative to the non-Indigenous population, which feeds into the deficit approach to analysis of success. Revision of the Closing the Gap framework to ensure that success reflects success as it is defined by Indigenous people, with outcomes that incorporate Indigenous values, priorities and culture, is in SAC's perspective the best practice approach.