



# **Inquiry into the Truth and Justice Commission Bill 2024**

Productivity Commission submission

**The Productivity Commission acknowledges the Traditional Owners of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to their Cultures, Country and Elders past and present.**

## **The Productivity Commission**

The Productivity Commission is the Australian Government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission's independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

Further information on the Productivity Commission can be obtained from the Commission's website ([www.pc.gov.au](http://www.pc.gov.au)).

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## Introduction

The Productivity Commission (PC) welcomes the opportunity to make this submission to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs inquiry into the Truth and Justice Commission Bill 2024 (the Truth and Justice Bill).

Under the National Agreement on Closing the Gap (the National Agreement), all governments in Australia have committed to ‘building and strengthening structures that empower Aboriginal and Torres Strait Islander people to share decision-making authority with governments’ (PM&C 2020, p. 5). The PC’s 2024 review of government progress against their stated commitments under the National Agreement, the *Review of the National Agreement on Closing the Gap* (the Review), emphasises that fulfilling this commitment requires acknowledging and addressing the ways in which past government policies have impacted outcomes and undermined trust with Aboriginal and Torres Strait Islander people (PC 2024a).

This is a crucial step in rectifying historical power imbalances and aligning decision-making authority with the commitments governments have made in response to the Review’s recommendations. Truth-telling is key to this process and is a promise governments have specifically committed to under the National Agreement (PM&C 2020, clause 59(e)). A number of governments also made representations to the PC during the Review that truth-telling was indispensable to governments fulfilling their transformational obligations under the National Agreement.

Truth-telling serves various purposes, and the process can vary depending on the priorities of the Aboriginal and Torres Strait Islander communities involved. Fundamentally, however, truth-telling must be designed and led by Aboriginal and Torres Strait Islander people and centre their experiences, resilience, knowledge and stories. This is critical to achieving a range of outcomes, including healing, reconciliation and the transformation of government, as outlined in the National Agreement.

This submission highlights findings from the Review which articulate the value of truth-telling, when designed and led by Aboriginal and Torres Strait Islander people. Truth-telling can play a role in transforming government and supporting the aspirations and priorities of Aboriginal and Torres Strait Islander communities.

## Truth-telling must be designed and led by Aboriginal and Torres Strait Islander people and communities

Truth-telling is often undertaken to address the historical injustices, ongoing harms and entrenched racism many Aboriginal and Torres Strait Islander people have endured and continue to experience. However, the narratives and histories shared through truth-telling do not only centre around colonisation and its impacts. Truth-telling can also highlight the ‘richness, value and diversity of Aboriginal cultures, both before colonisation and into the future’ (Government of Western Australia 2021, p. 40).

The PC acknowledges the importance of truth-telling and recommends a principle-based approach to any legislation, structure and form of the Truth and Justice Commission.

As stated in the Review, truth-telling can support the sharing of power, leading to more equitable partnerships or relationships and better ways of working with Aboriginal and Torres Strait Islander people, among many other things (PC 2024b, p. 31). However, central to meaningful truth-telling is the design, input and leadership of Aboriginal and Torres Strait Islander people throughout the entire process (PC 2024a, p. 121).

The Review found that too often Aboriginal and Torres Strait Islander people and communities fail to be adequately engaged or consulted about the design and scope of government policies, legislation and programs (PC 2024b, p. 55). A central recommendation in the Review is that government must share power with Aboriginal and Torres Strait Islander people and communities (PC 2024a, p. 11); both the principle of and actions derived from this recommendation have been accepted by all governments (Joint Council on Closing the Gap 2024). Aboriginal and Torres Strait Islander communities, or their representatives, must therefore have the power to make decisions about the purpose, form, structure, location and leadership of truth-telling processes.

The Truth and Justice Bill should ensure that it reflects the core principle of the National Agreement which asserts that better outcomes are achieved ‘when Aboriginal and Torres Strait Islander people have a genuine say in the design and delivery of services that affect them’ (PM&C 2020, clause 6). It should also ensure that there is flexibility to allow for an inclusive process that meets the priorities and ambitions of the many diverse Aboriginal and Torres Strait Islander individuals and communities across the country.

## **Governments have committed to truth-telling under the National Agreement on Closing the Gap**

Aboriginal and Torres Strait Islander people have long called for truth-telling to take place to expedite ‘political transformation and reconciliation’ (Barolsky et al. 2023, p. 3; PC 2024b, p. 121). Several jurisdictional governments have also recognised the significance of truth-telling as a catalyst for transformation including South Australia, Tasmania and Victoria (PC 2024b, p. 31).

Priority Reform 3 of the National Agreement commits governments to ‘identifying history with Aboriginal and Torres Strait Islander people and [facilitating] truth-telling to enable reconciliation and active, ongoing healing’ (PM&C 2020, clause 59(e)).

Governments should be actively involved in truth-telling processes. However, the Review found that governments have failed to grasp ‘the depth and magnitude of the change they have committed to’ (PC 2024b, p. 108). While the Review highlighted a number of ways this could be done, the PC also found that truth-telling is one critical way to accelerate and achieve this transformation within government.

Truth-telling requires governments to reflect on how historical and current power dynamics in their institutions affect the success of government policies, programs and services. In doing so, they can assess the processes and procedures they may need to stop, adopt or change to better serve Aboriginal and Torres Strait Islander communities.

## **Truth-telling can support power-sharing and more equitable partnerships**

An important prerequisite for the development of strong partnerships, as defined under Priority Reform 1, is for trust to be repaired (PC 2024b, p. 31). Yet, the PC heard through the Review that many existing relationships between government and community are characterised by mistrust. Organisational culture and processes often see governments reluctant to relinquish control in partnerships (PC 2024b, p. 31). For many Aboriginal and Torres Strait Islander communities who have experienced decades of changing policy and partially implemented programs, there is fatigue and uncertainty that government can be genuine partners (PC 2024b, p. 9).

The process of governments acknowledging the ways in which past behaviour and approaches have affected outcomes and trust with Aboriginal and Torres Strait Islander people can be an important step in addressing power imbalances and shifting decision-making power more broadly. This can be facilitated through active participation in truth-telling which can simultaneously reinforce the transformation of governments needed to see progress in other Priority Reforms.

## References

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- 2024b, *Review of the National Agreement on Closing the Gap*, Volume 2, Canberra.