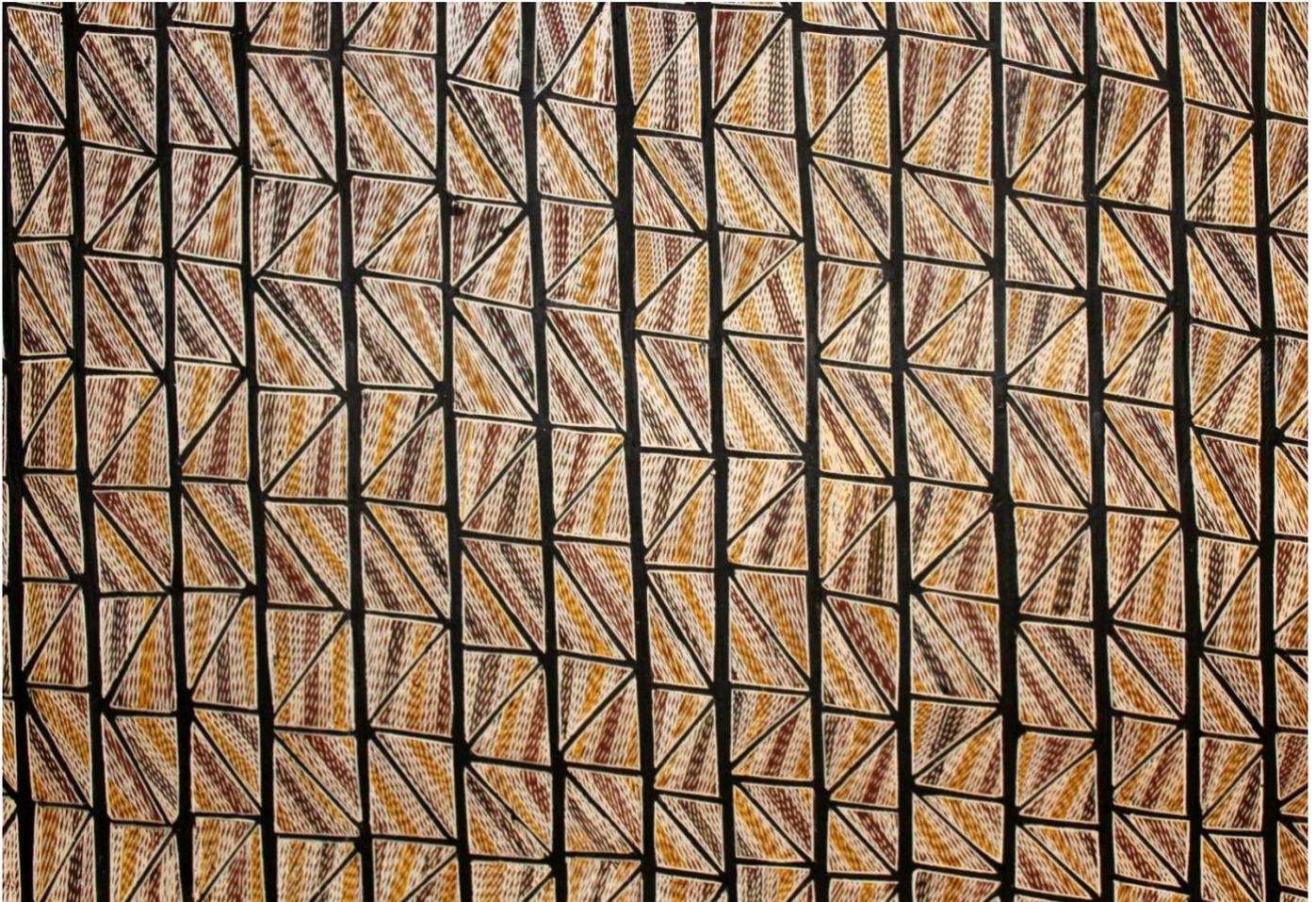# FIRST NATIONS REGIONAL AND NATIONAL REPRESENTATION: ALIGNING LOCAL DECISION MAKING IN NSW WITH CLOSING THE GAP AND THE PROPOSED INDIGENOUS VOICE

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First Nations Regional and National Representation: Aligning Local Decision Making in NSW with Closing the Gap and the proposed Indigenous Voice

T. Dreise, F. Markham, M. Lovell, W. Fogarty and A. Wighton

Abstract

Recent shifts in national policies have resulted in questions about how established regional forms of representation, such as those involved in NSW's Local Decision Making initiative, will be aligned with new policy priorities and processes. This paper seeks to clarify the terrain of competing and complementary representative institutions in NSW, in the context of the emergence of new national structures of Indigenous representation. In particular, the paper focuses on the NSW Coalition of Aboriginal Regional Alliances, and its relationships with the bodies representing Indigenous peaks at the national and state levels, and the Local and Regional Voices proposed in the Interim Report on Indigenous Voice. We argue that regional structures of Indigenous representation have an enduring value. We unpack the notion of 'representation,' arguing for recognition of the differences between representative bodies on the basis of who is being represented, around what, and by whom. We suggest that there is scope for the existence of complementary bodies, working with different structures towards largely shared goals and priorities. We conclude that the co-existence of representative organisations that differ in terms of their constituents and scope requires the clear delineation of how these institutions sit side-by-side, and a clear demarcation of their decision-making powers and authority, and their roles and responsibilities.

Acronyms

ANU	Australian National University
ARA	Aboriginal Regional Alliance
ATSIC	Aboriginal and Torres Strait Islander Commission
CAEPR	Centre for Aboriginal Economic Policy Research
COAG	Council of Australian Governments
COP	Coalition of Peaks (more formally referred to as the Coalition of Aboriginal and Torres Strait Islander Peak Organisations)
CWP	Community Working Party
IRSEO	Index of Relative Socio-Economic Outcomes
LDM	Local Decision Making
LGA	Local Government Areas
MPRA	Murdi Paaki Regional Assembly
NACCHO	National Aboriginal Community Controlled Health Organisation
NCARA	NSW Coalition of Aboriginal Regional Alliances
NSW CAPO	New South Wales Coalition of Aboriginal Peak Organisations
OCHRE	Opportunity, Choice, Healing, Responsibility, Empowerment (The NSW Government Plan for Aboriginal Affairs)

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Summary of paper

Recent shifts in national Indigenous affairs policies around First Nations[1] representation have understandably resulted in questions about how established regional forms of representation will be aligned with new policy priorities and processes. In particular, the 2020 National Agreement on Closing the Gap and the proposed Indigenous Voice both have implications for NSW's Local Decision Making (LDM) initiative. This paper canvasses some long-standing issues related to First Nations' representation, advocacy, and policy in NSW, in response to emerging national policies and structures. The paper seeks to clarify the terrain of competing and complementary representative institutions in NSW.

Background

Indigenous affairs in Australia has been characterised by the frequent reinvention of programs and institutions and recurrent policy crises, deep-seated ideological contestation, and discourses of deficit. Near constant rounds of policy revision and disruption make learning from, and consolidation of, good initiatives difficult and are the cause of immense frustration among actors in the Indigenous sector. Perhaps nowhere has this been more evident than when it comes to representation, with numerous representative and advisory bodies having been formed, reformed and abolished in recent decades.

In NSW, the architecture of representation involved in the LDM initiative intersects with that involved in the new Closing the Gap agreement and the proposed Indigenous Voice. This paper describes the origins and purposes of these representative structures, and asks: *Who is being represented? By whom? And about what?* In doing so, this paper pays particular attention to the NSW Coalition of Aboriginal Regional Alliances (NCARA) and the value of regional representation.

NCARA and regional representation

The value of regional structures of representation of First Nations people has long been recognised by First Nations people, with proponents ranging from Lowitja O'Donoghue and Nugget Coombs in the 1980s to the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples in 2018. Much of this value arises from the potential alignment of regions with Aboriginal geographies of relationships and Country. Furthermore, regional structures work well with what the research literature terms the 'principle of subsidiarity', which suggests that that decisions should be made at local or regional levels or organisation unless addressing shared priorities requires the common efforts of larger groups of Aboriginal political communities.

NCARA, an independent forum for chairs of Aboriginal Regional Alliances (ARAs), argues that regional representation about service delivery has benefits including:

- providing a mechanism for Aboriginal communities to hold governments accountable

- scrutinising the implementation (or non-implementation) of policies and programs in regional communities

- connecting Aboriginal communities to government, and providing a voice for regional communities to speak back to government on service delivery matters

- identifying regional priorities for Aboriginal communities with regards to service provision

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[1] Here we use the term 'First Nations people' to refer to Aboriginal and Torres Strait Islander people in Australia. However, we also refer to 'Indigenous Affairs' in the context of Commonwealth public policy and Aboriginal people, Aboriginal communities and Aboriginal Affairs in the context of NSW Government policy.

- influencing the design and delivery of government programs and facilitating shared decision-making about service delivery issues with government

- holding a mandate to represent regional Aboriginal communities on service delivery issues.

Aligning regional representation with evolving national policies

There is considerable concern in NSW about the perceived competition between pre-existing representative bodies for influence in policy-making processes and subsequent access to resources and funding. This concern has arisen due to perceived competition between bodies involved in NSW's LDM initiative, namely Aboriginal Regional Alliances and NCARA, and bodies involved in negotiating and implementing the new National Agreement on Closing the Gap, specially the national and state coalitions of peak organisations. The possible creation of Local and Regional Voices as proposed in the Interim Report on Indigenous Voice adds a further level of complexity to questions of representation in NSW.

We argue that NCARA, the NSW Coalition of Aboriginal Peak Organisations, and the proposed Local and Regional Voices all undertake different types of representation:

- NCARA represents regional Aboriginal communities around service design and delivery through delegates from ARAs

- the NSW Coalition of Aboriginal Peak Organisations represents Aboriginal and Torres Strait Islander community-controlled organisations and independent statutory authorities around service design and delivery through delegates from these peak bodies

- the proposed Local and Regional Voices are likely to represent regional Aboriginal communities on all manner of political issues through 'existing structures' of representation.

Because these organisations differ in terms of their constituency and scope, there is clearly room for co-existence. However, this will require the clear delineation of how these institutions sit side-by-side, and clearly demarcate their decision-making powers and authority, their roles and responsibilities.

We argue that there is already a strong alignment between Closing the Gap and LDM in terms of goals, priorities and principles. Furthermore, many (but not all) of the local organisations that are represented by their peak bodies are also members of ARAs. Finally, we believe that LDM provides a mechanism which could contribute to the implementation of the NSW Government's commitments in the Closing the Gap argument.

Similarly, we believe that there is a strong alignment between the system of ARAs and the proposed Local and Regional Voices. This is recognised by the drafters of the Interim Report on Indigenous Voice. However, the proposed Indigenous Voice runs the risk of impairing the LDM process if it forces amalgamations of regional representative bodies in ways that are unsupported by regional Aboriginal communities. While we are not aware of any explicit proposals for amalgamations, the number of Local and Regional Voices in NSW in the Interim Report is too small to accommodate both complete coverage of NSW by Aboriginal Regional Alliances *and* a structure where each ARA acts as a Regional Voice.

We conclude that it is incumbent on the NSW Government to clarify the roles and responsibilities of Aboriginal regional representative bodies and peak body representative structures, and to proactively contribute towards shifting the discourse at the NSW state level from one of competition to one of complementary work on shared goals, priorities and mutual interests.

Introduction

Recent shifts in national policies like the refreshed Closing the Gap initiative and the proposed Indigenous Voice have resulted in questions about how established regional forms of representation, such as those involved in the New South Wales (NSW) Local Decision Making (LDM) initiative, will be aligned with new policy priorities and processes. This paper canvasses some long-standing issues related to First Nations' representation, advocacy and policy that are impacting more recent public policy developments in NSW. The paper arises out of a large-scale independent evaluation project being conducted by Centre for Aboriginal Economic Policy Research (CAEPR) with five Aboriginal Regional Alliances (ARAs), the NSW Coalition of Aboriginal Regional Alliances (NCARA), and public sector officials, funded by Aboriginal Affairs NSW. As a contribution to this evaluation and to emerging policy debates, we canvas some preliminary perspectives on the rapidly evolving landscape of Aboriginal representation and 'voice' in NSW. Specifically, we investigate the place of LDM in the new policy architecture and discuss the need for clear and defined articulations between existing national and state policy architectures and emerging structures, such as the Coalition of Peaks (COP) and the proposed 'Indigenous Voice'. We describe the unique strengths of regional forms of representation and argue for a policy environment that supports the co-existence of potentially overlapping, complementary, perhaps sometimes competing, but ultimately self-determined, forms of First Nations representation.

Since colonisation, the settler colonial state has, under various guises, enacted a raft of policy settings *for and aimed at* First Nations people in Australia. For a period from the 1950s until the 1980s, approaches to Indigenous affairs gradually removed many discriminatory structures that prevented Indigenous peoples' access to the economic, civil and political rights enjoyed by other Australian citizens. At the Commonwealth level, for around 25 years from the 1970s, this was interwoven with an imperative toward 'self-determination' or 'self-management' which recognised and sought to accommodate, to a degree, Indigenous political autonomy and cultural difference within the Australian state (Sanders, 2006). However, the election of the Howard Government in 1996 and the bipartisan abolition of ATSIC in 2004–05 marked a return to increased state control, glossed variously by governments as 'practical reconciliation' (Herron, 2000; Howard, 1997), 'mainstreaming' (Howard & Vanstone, 2004), and a 'new paternalism' (Abbott, 2006; for periodisations, see Altman, 2016; Davis, 2015; Strakosch, 2015). During this period, the abolition of ATSIC (2004–05), the subsequent Intervention in the Northern Territory (2007), the replacement of CDEP with work-for-the-dole (2007–13), and the chaotic defunding of many Indigenous community-controlled organisations under the Indigenous Advancement Strategy (2014) mark low points in the rollback by the Commonwealth Government of Indigenous self-determination policy.

In NSW, the shift from assimilation towards self-determination policy was marked by the convening of a 1978 Select Committee of the Legislative Assembly that produced two influential reports, and the subsequent passage of the *Aboriginal Land Rights Act 1983* (Norman, 2007, 2015, p. 48; Parliament of New South Wales, 1980, 1981). The network of membership-based Local Aboriginal Land Councils created and funded by that legislation has arguably been one of the longest running and strongest expressions of NSW Government support for Aboriginal self-determination, albeit within prescribed limits (Hunt, 2018; Macdonald, 1988; Norman, 2015). Unlike the Commonwealth, the NSW Government has never formally repudiated its support for Aboriginal self-determination, although the efficacy of institutional and policy arrangements in furthering that objective has been questioned (Hunt, 2018).

Despite the notable achievements of the self-determination era, national and state policy design has frequently and consistently had disastrous outcomes for First Nations people. In an era where mainstream public policy reform agendas have arguably been 'gridlocked' with little progress being made at policy reform (Daley, 2021), Indigenous affairs has suffered from the opposite problem, with frequent reinvention of programs and institutions and recurrent policy crises (Anderson, 2015; Lea, 2012; Strakosch, 2019), driven partly by deep-seated

ideological contestation (Sanders, 2010) and discourses of deficit (Fforde et al., 2013). These near constant rounds of policy revision and disruption make learning from and consolidation of good initiatives difficult and are the cause of immense frustration among actors in the Indigenous sector who must continually respond to changing government priorities, rules, structures and procedures.

Perhaps nowhere has this been more evident than when it comes to Indigenous representation and the plethora of bodies advising the Commonwealth Government on Indigenous public policy in a series of attempts to fill the void left by the abolition of ATSIC in 2004–05. Since that time, Commonwealth governments have sought advice on Indigenous policy issues from panels of handpicked advisors (National Indigenous Council, 2004–2008; Indigenous Advisory Council, 2013–2019), from a government-funded but First Nations member-owned organisation (the National Congress of Australia's First Peoples, 2010–2019) and, more recently, from an alliance of peak organisations representing the Indigenous community-controlled sector (COP, 2019–present). Further changes appear likely, with a co-design process currently underway to devise a new nationally representative body known as the 'Indigenous Voice' (Langton et al., 2020). Adding complexity to this churn is a similar momentum by state and territory governments to seek advice from a multitude of incorporated and peak bodies in their jurisdictions. This has resulted in an uneven pattern of First Nations representation at the state and territory, regional and local government levels (for a detailed listing, see Langton et al., 2020, pp. 193–216).

In this complicated terrain of 'representative bodies', it is useful to clarify what 'representation' means. For example, ATSIC and the National Indigenous Council were both representative bodies of a sort; however, they were quite different sorts of institutions. Representation is a vague term that raises important questions. In particular: *Who is being represented? By whom? Where and how? And around what?* Such questions are sometimes ignored, but they are vital in clarifying the terrain of competing and complementary representative institutions. Recent national initiatives in First Nations representation (the coalescence of the COP and the proposed Indigenous Voice) will inevitably intersect with these state level bodies and mechanisms. Consequently, it is to these two latest developments in First Nations representation at the national level, and their articulation with NCARA, that we now turn.

Closing the Gap and the Coalition of Peaks

Amid remarkable policy and bureaucratic churn, an approach to government policy known as 'Closing the Gap' has provided something of a policy constant (Strakosch, 2019). Closing the Gap was originally an intergovernmental agreement to reduce statistical disparities in health, education and economic outcomes between First Nations people and non-Indigenous Australians. It was one of the key Indigenous affairs initiatives of the incoming Rudd Labor Government, elected in late 2007, and was developed and implemented without a focus on First Nations self-determination. Implemented via a series of agreements between the Commonwealth and state and territory governments (Council of Australian Governments (COAG), 2009), the initiative not only committed governments to reducing statistical inequalities between Indigenous and non-Indigenous people in Australia, but to also regularly measuring these inequalities and annually reporting on progress to parliament. Despite the commitment of around $8.9 billion in funding over 10 years through eight Indigenous-specific national partnership agreements, the Commonwealth government did not develop an implementation plan to ensure that its programs would contribute to meeting the Closing the Gap targets (Australian National Audit Office, 2019).

The tragic and yet predictable (Altman et al., 2009) governmental failure to achieve the goals set out in the Closing the Gap framework (National Indigenous Australians Agency, 2020) thus became an annual media spectacle. Each February, successive Prime Ministers bemoaned the general lack of progress and promised to redouble their endeavours to do better. This very public form of accountability led Closing the Gap to become synonymous with policy failure (Strakosch, 2019). Unsurprisingly, governments eventually tired of these highly

public admissions of failure. Anderson (2015, p. 54) writes of Indigenous affairs more generally that 'Governments seem to oscillate between political hand-wringing, with ritual calls to action, and radical policy change'. In 2016, after years of Prime Ministers delivering their annual Closing the Gap speeches, COAG agreed the time for such an oscillation had come, with the Closing the Gap approach needing what was to be referred to as a 'refresh'.

Initially, First Nations people were only to be consulted on the content of the refreshed Closing the Gap framework. The refresh process promoted 'an agenda based on views within government that…involved virtually no engagement with First Peoples in their development' (Close the Gap Campaign Steering Committee, 2018, p. 9). Structural reforms were not countenanced in a Discussion Paper circulated by the Commonwealth Government for consultation in 2018 (COAG, 2017; for a discussion, see Markham et al., 2018). However, as consultation came to a close in late 2018, a group of 'prominent Aboriginal and Torres Strait Islander Australians' (COAG, 2018) wrote to the Prime Minister and state and territory First Ministers to contend that in their view, the refreshed Closing the Gap framework must be based on a negotiated agreement with Indigenous peak bodies, not just consultation (Paterson et al., 2018). To the Indigenous peaks' 'great surprise', the Prime Minister agreed (Turner, 2019). This opportunity was seized, and an 18-month negotiation commenced. In December 2018, COAG released a statement on the refresh, setting out a new approach to Closing the Gap based on a 'true partnership' between governments and First Nations peoples. In July 2020, drawing on lessons from the urgent response to the health and economic position of First Nations communities during the Covid-19 pandemic (Markham et al., 2020), a new National Agreement was signed between all Australian governments and the COP, a newly-constituted 'representative body consisting of Aboriginal and Torres Strait Islander national and state and territory community-controlled peak organisations who work to improve life outcomes for Aboriginal and Torres Strait Islander people' (COP & Australian Governments, 2020, p. 44). Members of the COP are mostly peak bodies for community-controlled service providers (such as the National Aboriginal Community Controlled Health Organisation (NACCHO), the peak body for Aboriginal Community Controlled Health Organisations) and Indigenous professional associations (such as the Australian Indigenous Doctors' Association, the peak body for Indigenous doctors).[2] A range of Aboriginal peak organisations founded at the state or territory level have also formed alliances. In NSW the state-level alliance of peak bodies is the New South Wales Coalition of Aboriginal Peak Organisations (NSW CAPO).[3] These state or territory-level Aboriginal alliances of peak organisations can also become members of the national COP, on the provision that they work with state and territory governments on policy issues (COP, 2021b).

Fundamental to the new National Agreement on Closing the Gap and its subsequent implementation are four key areas of priority for reform (COP & Australian Governments, 2020):

1. Developing and strengthening structures to ensure the full involvement of Aboriginal and Torres Strait Islander peoples in shared decision-making at the national, state and local or regional level and embedding their ownership, responsibility and expertise to close the gap.

2. Building the formal Aboriginal and Torres Strait Islander community-controlled services sector to deliver Closing the Gap services and programs in agreed focus areas.

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[2] At the time of writing, there were 15 organisations listed as national members of the COP, seven organisations listed as members of the NSW Coalition of Aboriginal Peak Organisations, and 40 organisations listed as members of Coalitions in other states and territories (COP, 2021a).

[3] NSW CAPO is comprised of eight peak service organisations in NSW: First Peoples Disability Network Australia, Link-Up (NSW) Aboriginal Corporation, NSW Child, Family and Community Peak Aboriginal Corporation (NSW AbSec), NSW Aboriginal Education Consultative Group, NSW Aboriginal Land Council, Aboriginal Legal Services NSW/ACT, the Aboriginal Health and Medical Research Council of NSW and BlaQ Aboriginal Corporation. The leadership of NSW CAPO is drawn from the NSW Aboriginal Land Council, with the Chair of NSW CAPO currently the Deputy Chair of NSW Aboriginal Land Council, while the Head of the NSW CAPO Secretariat is the CEO of the NSW Aboriginal Land Council (NSW Government & NSW CAPO, 2021).

3. Ensuring all mainstream government agencies and institutions undertake systemic and structural transformation to contribute to Closing the Gap, improve accountability and respond to the needs of Aboriginal and Torres Strait Islander people.

4. Ensuring Aboriginal and Torres Strait Islander people have access to, and the capability to use, locally relevant data and information to monitor the implementation of the Priority Reforms, the Closing the Gap targets and drive local priorities.

In some jurisdictions, additional targets and/or priority reforms have been agreed by state or territory governments and state-based organisations. For example, the NSW CAPO has negotiated the addition of a fifth priority reform in that jurisdiction, with Priority Reform Five ensuring that:

> *Aboriginal and Torres Strait Islander people in NSW are empowered to access pathways through education, training and employment that align with their aspirations, and Aboriginal and Torres Strait Islander businesses grow and flourish. (NSW Government & NSW CAPO, 2021, p. 37)*

In contrast with earlier iterations of Closing the Gap, which involved cursory consultation of Indigenous people, but did not include Indigenous groups as parties to the agreement, the new Closing the Gap Agreement represents a major effort by the Commonwealth Government to partner with First Nations peak organisations.

However, in negotiating and co-signing the new National Agreement on Closing the Gap with the COP, this approach to Indigenous–government relations fails to proactively incorporate regional and local representation from the outset, although the text of the National Agreement prioritises, and recognises the value of, local knowledge, ownership, and responsibility. Critics raise two key objections to the process so far: that the COP fails to represent First Nations communities adequately and that service providers are an inappropriate vehicle for 'true self-determination' (Davis, 2020).

While much of the momentum surrounding the new Closing the Gap agenda has come at the national level, the new agreement has become a priority on the Indigenous affairs policy agendas in many states and territories. In NSW for example, the Closing the Gap implementation plan shows a renewed focus on members of NSW CAPO (NSW Government & NSW CAPO, 2021). New bureaucratic institutions have been established to assist with the implementation the agreement, including a new 'Closing the Gap Directorate' within Aboriginal Affairs NSW, and three new decision-making bodies (NSW Government & NSW CAPO, 2021):

- a Joint Council, the key decision-making and planning body for Closing the Gap in NSW, which is co-chaired by the Minister for Aboriginal Affairs and the Chair of NSW CAPO

- a Partnership Working Group, responsible for monitoring performance, endorsing key deliverables and processes to develop the implementation plan, which co-chaired by a Deputy Secretary from the Department of Premier and Cabinet and the Head of the NSW CAPO Secretariat[4]

- Officer-level Working Groups, established to provide subject matter expertise to develop and progress action towards meeting the Priority Reforms and 17 socioeconomic targets and co-chaired by NSW CAPO and NSW Government Cluster Leads.[5]

These new structures for shared-decision making suggest that NSW CAPO is now embedded in government processes, playing a key role in decisions relating to the implementation of the National Agreement on Closing the Gap in NSW.

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[4] NCARA have one seat in the Partnership Working Group, while each member and affiliate member of NSW CAPO also have one seat each.
[5] The composition of the Officer-level Working Groups is unclear, with the Implementation Plan suggesting that 'Membership will comprise of NSW CAPO, NCARA and other government officials as required' bodies (NSW Government & NSW CAPO, 2021, p. 6).

This has created a tension between national and state bodies representing peak organisations, and local and regional representative voices. Mitigating this tension will require the clear articulation of the roles and responsibilities assigned to peak service organisations, local decision-making bodies (e.g., ARAs under the NSW Government *OCHRE* Plan for Aboriginal Affairs), and state and federal governments. If this is managed successfully, the new Closing the Gap Agreement may benefit from peaks representing service providers involved in service delivery and supply, while also garnering the local and regional perspectives of First Nations people using those services. We will return to this point later in this paper, but this becomes especially important in the context of another major development in the Indigenous affairs policy landscape: the proposed Indigenous Voice.

The proposed Indigenous Voice

In recent years, a proposal for an Indigenous Voice has gained increasing prominence on the Commonwealth Indigenous affairs agenda. The proposal has its origins in the Gillard Government's 2010 establishment of an Expert Panel into the recognition of Indigenous people in the Australian Constitution, a debate that was originally couched in terms of the place of First Nations people in the political life of Australia. The Expert Panel recommended that – among other provisions – a prohibition on racial discrimination be inserted into the Constitution (Expert Panel on Constitutional Recognition of Indigenous Australians, 2012). This was vigorously rejected by so-called 'constitutional conservatives' led by then Opposition Leader Tony Abbott who memorably characterised it as a 'one-clause bill of rights' (Griffiths, 2012). A compromise solution to this impasse was first broached by Noel Pearson's Cape York Institute, that in 2014 suggested the establishment in the Constitution of 'an Indigenous body to give Indigenous people a voice in Parliament's law making in Indigenous affairs' (Cape York Institute, 2014, p. 15; see also Pearson, 2014, pp. 66–67).

By late 2015 the Australian Government had established a Referendum Council to advise them on 'progress and next steps towards a successful referendum to recognise Aboriginal and Torres Strait Islander peoples in the Constitution' (Referendum Council, 2017, p. 46). This Referendum Council produced a 15-page Discussion Paper, convened 12 First Nations Regional Dialogues, and held a National Constitutional Convention at Uluru in May 2017. These gatherings were attended almost exclusively by First Nations participants and represented the first opportunity for Indigenous peoples to come together and develop their position on how they wanted to be recognised within the political life of the nation. The result of this process of deliberation and dialogue was a partial endorsement of the Pearson proposal in the *Uluru Statement from the Heart*, a statement outlining (among proposals for treaty and truth-telling) a demand for a constitutionally enshrined First Nations Voice to Parliament (Referendum Council, 2017, p. i). Although the Turnbull Government rejected this proposition in late 2017, the constitutional enshrinement of a First Nations Voice to Parliament is the subject of an ongoing campaign, and is part of Australian Labor Party and Australian Greens policy platforms (Davis & Williams, 2021).

While the question of constitutional enshrinement remains contested, work to design the functions of such a Voice is ongoing. A national co-design process, while excluding the possibility of constitutional enshrinement from its terms of reference, has produced an *Interim Report* on the form such an Indigenous Voice(s) might take (Langton et al., 2020). Over 3000 written submissions from First Nations and non-Indigenous organisations were received on this proposal, and 115 community consultation meetings were held in 67 communities (Bourchier et al., 2021). The final report from the co-design process was expected to be handed to the Minister for Indigenous Australians in July 2021 (Bourchier et al., 2021). Despite this co-design process, decisions on the design of any legislation arising from this process will ultimately be made by the Australian Government, which at the time of writing intended to legislate a Voice before the end of the parliamentary term (Wyatt & Kelly, 2021).

The Indigenous Voice proposal includes the design of a representative body that includes a regional focus, with the terms of reference for the co-design process instructing the co-design group to 'determine options to improve local and regional decision making' (Langton et al., 2020, p. 178). The *Interim Report* includes plans for both a 'National Voice' and 'Local and Regional Voices', possibly connected via a 'structural membership link', whereby members of the National Voice are drawn from Local and Regional Voices (Langton et al., 2020, pp. 33–36). The proposed National Voice would be a small advisory body of First Nations representatives with a mandate to advise the Australian Parliament and Government on relevant policy issues. In contrast, the Local and Regional Voices are envisaged to have a much broader scope of responsibilities, including to 'undertake community engagement, provide advice to governments and other stakeholders, undertake and facilitate shared decision making with governments, and engage with the National Voice' (Langton et al., 2020, p. 71). A key element of the report's ethos is that (Langton et al., 2020, p. 61):

> *Local and Regional Voices…[have] the real potential to enhance local and regional decision making and transform the way Aboriginal and Torres Strait Islander peoples and governments work together on the ground. It is about locally led solutions and action, and community voices influencing decision making.*

The report explicitly states that governments must support existing governance and decision-making initiatives and that 'a key expectation is that proposals developed by the Local & Regional Co-design Group will accommodate and enhance (not duplicate or undermine) existing initiatives' (Langton et al., 2020, p. 65). One such initiative specifically mentioned in the Interim Report is the NSW LDM component of the *OCHRE* Plan for Aboriginal Affairs (Langton et al., 2020, pp. 25, 63, 65–66, 70, 93, 101).

Local Decision Making in NSW

In August 2011, the newly elected Liberal-National Government in NSW announced the establishment of a Ministerial Taskforce on Aboriginal Affairs to draft a new Aboriginal Affairs strategy for NSW. The taskforce was comprised mostly of Ministers and senior public officials, but also included representatives from NSW CAPO, the national Aboriginal Employment Strategy and a representative of Aboriginal youth. After extensively consulting on the issue of service delivery (among others), the Taskforce proposed principles for three major new initiatives: Opportunity Hubs, Aboriginal Language and Culture Nests, and a Local Decision-Making model (Ministerial Taskforce on Aboriginal Affairs, 2013). By 2013, a new 'community focused plan for Aboriginal Affairs' was announced, termed *OCHRE* (or Opportunity, Choice, Healing, Responsibility, Empowerment). *OCHRE* was intended to support Aboriginal self-determination and priorities, and represented a commitment to transfer control of program design and delivery to Aboriginal communities.

LDM remains one of several *OCHRE* initiatives. The original *OCHRE* plan described LDM as having the:

> *ultimate aim…[of] ensuring Aboriginal communities have a genuine voice in determining what services are delivered and how they are delivered, growing the capacity of communities to make decisions about their future (Aboriginal Affairs NSW, 2013, p. 23).*

Through transferring power to make decisions about service delivery, LDM aims to transform the relationship between Aboriginal communities and the NSW Government to one of partnership. LDM 'seeks to place Aboriginal people at the centre of service design, planning and delivery' (Aboriginal Affairs NSW, 2017b, p. 5). Ultimately, LDM aims to devolve certain decision-making and budgetary powers to regional Aboriginal communities.

LDM was designed around a place-based partnership approach to service delivery. As such, it shares some similarities with several other state and Commonwealth initiatives that have sought to share decision-making in

the realm of service delivery. Walden (2016, pp. 140–154) describes several such Commonwealth and NSW Government initiatives. At the Commonwealth level, these include the COAG Trials during 2002–2007 (Morgan Disney & Associates, 2006), Shared Responsibility Agreements and the envisaged associated Regional Partnership Agreements from 2005–2007 (Arabena, 2005; Strakosch, 2015, pp. 87–96), the Local Implementation Plans developed under the Remote Service Delivery National Partnership Agreement from 2008–2014 (Walden et al., 2014), and Empowered Communities from 2015 (Wunan Foundation Inc., 2015). As one report from an intergovernmental conference summarised the situation in 2017, the Commonwealth Government 'is shifting away from transactional bases of engagement to more collaborative and strong place-based relationships, predicated on recognition of strengths and sharing power and decision-making' (Aboriginal Affairs NSW, 2017a, p. 32). Concomitantly, 'co-design' has become a ubiquitous, albeit contested, feature of Indigenous public policy design discourse at the Commonwealth level (Dillon, 2021). In NSW, the forerunner to LDM was found in the 2003–2012 plan for Aboriginal Affairs, termed *Two ways together – partnerships: new ways of doing business with Aboriginal people* and its Partnership Community Program from 2009–2011 (Auditor-General of NSW, 2011; NSW Government, 2003).

LDM is largely structured around what Strakosch (2015, pp. 148–150) terms 'quasi-contractualism', a process of negotiating and implementing formal and binding agreements, known as Accords, between ARAs and the NSW Government. In this context, Accords are a central mechanism by which the staged devolution of decision making and accountability to the local level under LDM is negotiated. The initiative represents a recognition on the part of the NSW Government that partnerships, where First Nations peoples have a measure of control over the design and delivery of programs and policies, are necessary for the successful design and implementation of Indigenous public policy. However, there are also key differences between LDM and earlier arrangements such as the Shared Responsibility Agreements referred to above. For example, the signing of an Accord under LDM does not compel the Aboriginal community signatories to require that their fellow community members behave in particular ways[6] or indeed any other actions beyond further participation in the LDM initiative. Other jurisdictions have followed suit, including with the similarly-named, but differently structured, Local Decision Making program in the Northern Territory (Northern Territory Government, 2018).

Aboriginal Regional Alliances, a key part of Local Decision Making

LDM was designed with the recognition of Aboriginal rights 'to self-determination and the right to participate in decision-making and exercise full authority and self-management' (Aboriginal Affairs NSW, 2017b, p. 6). In part, this is implemented through recognition that the question 'Who is the self in self-determination?' (Cornell, 2007; Hunt et al., 2008; Nakata, 2020) is one that Aboriginal peoples themselves must answer. As such, Aboriginal collectives have the opportunity to put themselves forward for recognition as representatives of their regional community, including specifying the geographical boundaries of the community itself. Regions under LDM stretch beyond individual towns or discrete communities (see Table 1), in acknowledgement of the networks of relationships 'found dispersed across wider regions, and which are often seen by Indigenous people as constituting the more legitimate bases for the "self" in their community self-governance' (Hunt et al., 2008, p. 10). The NSW Government views ARAs as representing 'Aboriginal communities' on service delivery matters, with LDM aiming to 'enable Aboriginal communities to participate fully in decision making concerning service design and delivery' (Aboriginal Affairs NSW, 2017b, p. 4).

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[6] The most widely reported Shared Responsibility Agreement was struck in 2004 between the remote community of Mulan, the Western Australian Government and the Commonwealth Government. In exchange for the installation of a petrol pump, the Mulan community agreed to a raft of hygiene-related measures (such as ensuring that rubbish bins were emptied more frequently) that were labelled 'coercive and patronising' at the time (Strakosch, 2015, pp. 89–91).

Among other requirements for participation, ARAs are required to describe the mechanisms by which they will be accountable to their regional Aboriginal community (Aboriginal Affairs NSW, 2017c). As Aboriginal Affairs NSW puts it (2017b, p. 6):

> *How Aboriginal communities are represented and how they come together to make decisions, are matters for communities to determine. Government has no role in directing how communities govern themselves. Accordingly, the principles of self-determination are embedded in LDM, by the following:*
>
> - *Aboriginal people have the right to determine their own governance and decision-making structures in accordance with their customs, traditions and in the best interests of their community;*
>
> - *Aboriginal people have the right to develop and maintain their own traditions, procedures and practices; and*
>
> - *Aboriginal people have the right to recognition and enforcement of any agreements they enter into with the government.*

LDM and Accord-making is currently taking place at a regional level across NSW, with Aboriginal communities represented by 10 Aboriginal Regional Alliances[7] and at a state level by NCARA. In line with LDM's flexible 'ground-up implementation process', each region is at a different stage in the Accord-making process, having signed up to LDM through an Expression of Interest process, which is open to any existing or newly formed Regional Alliance. Under LDM, Regional Alliances are required to represent a region (i.e. more than one locality), be made up of two or more Aboriginal community organisations, demonstrate the support of Aboriginal communities within their region, and demonstrate a commitment to developing their governance practices and procedures (NCARA, 2019). The first three regions to join the LDM program in 2013 included Murdi Paaki Regional Assembly (MPRA) in the far west of NSW, Illawarra-Wingecarribee Aboriginal Alliance Corporation which covers a region from Wollongong to Bowral, and Regional Aboriginal Development Alliance on the North Coast of NSW (which has since split to form to smaller regional alliances). Other Regional Alliances have joined the initiative since then, with varying memberships from region to region. In general, most Aboriginal Regional Alliances are constituted of some combination of Community Working Parties or Local Assemblies (four of 10 ARAs), Local Aboriginal Land Councils (five ARAs), and other Aboriginal owned or managed community bodies and organisations (five ARAs) (see Table 1).

The NSW Coalition of Aboriginal Regional Alliances

Complementing these regional arrangements, in 2014 NCARA was established to operate as an 'independent forum' made up of nominated representatives from the network of Aboriginal Regional Alliances across NSW (NCARA, 2020). NCARA is an unincorporated body, with secretarial support provided by a seconded public official. NCARA first came together as the 'Local Decision Making Regional Chairpersons' Group' to enable Regional Alliance Chairs to discuss issues arising from the implementation of LDM (Local Decision Making Regional Chairpersons Group, 2016). Since 2014, NCARA's functions have grown to include advocacy on policy, program and service delivery issues; discussion and consideration of common issues across the LDM regions; identification of risks and opportunities and strategic planning for the future needs of Aboriginal communities; facilitation of inter-regional coordination and collaboration; and provision of mutual support for participating and emerging ARAs (NSW Coalition of Aboriginal Regional Alliances, 2020, p. 8). In their self-written 2020 Terms of Reference (NSW COPA, 2020, p. 6), NCARA describes itself as follows:

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[7] At the time of writing, one of these 10 ARAs – Tribal Wave Assembly – is no longer listed by Aboriginal Affairs NSW as an active participant in the LDM initiative.

The NSW Coalition of Aboriginal Regional Alliances (NCARA) group operates as a forum to support and drive the initiatives that reclaim, renew and return Aboriginal peoples to prosperity, by shifting decision-making about government services from central and top-down approaches to grassroots where people live. The NCARA group is an independent forum broadly representing the views of Aboriginal community, participating Regional Alliances and their priorities in an open, honest and informed environment.

Individual NCARA delegates are accountable to their regions through each ARA's board structure, from whom they receive instructions and by whom they are elected, although the mechanisms for this may vary between ARAs depending on their governance structure. The members of ARAs themselves have diverse accountability structures that depend on the nature of the organisation from which they are drawn. While the structures vary from region to region, robust accountability structures are a prerequisite for participation in both LDM and NCARA (Aboriginal Affairs NSW, 2017b; NSW COPA, 2020).

NCARA began Accord negotiations with the NSW Government in 2018, signing a state-level Accord with NSW Government the following year (NCARA, 2018; NCARA & NSW Government, 2019). As a forum that brings together representatives from a network of ARAs across NSW, NCARA presents a valuable case study through which to explore issues of regional Indigenous representative structures in the context of nationally-driven public policy reform agendas.

Table 1   The membership and location of Aboriginal Regional Alliances participating in the NSW Local Decision Making initiative, June 2021

Aboriginal Regional Alliance	Composition	Region
Barang Regional Alliance	One representative from six lead Aboriginal Community Controlled Organisations and the Local Aboriginal Land Council: Bara Barang Corporation, Darkinjung Local Aboriginal Land Council, Gudjagang Ngara Ii-dhi Aboriginal Corporation, Mingaletta Aboriginal Corporation, NAISDA Dance College, The Glen Centre, and Yerin Aboriginal Health Services Inc. (Barang Regional Alliance, 2021)	NSW Central Coast
Illawarra-Wingecarribee Alliance Aboriginal Corporation	Representatives from five Indigenous sector groups and corporations: Shellharbour Aboriginal Community Youth Association Inc., Illawarra Aboriginal Corporation, Kullila Housing and Cultural Heritage Aboriginal Corporation, Koori Services Australia Aboriginal Corporation and Koori Kulcha Aboriginal Corporation	Illawarra and Wingecarribee areas of NSW
La Perouse Aboriginal Community Alliance	Representatives from seven organisations that undertake community development and deliver services to the La Perouse area: La Perouse Local Aboriginal Land Council, Guriwal Aboriginal Corporation, Eastern Zone Gujaga Aboriginal Corporation, La Perouse Youth Haven, La Perouse Board Riders Aboriginal Corporation, La Perouse Panthers Sporting Aboriginal Corporation, and Gamanygal Aboriginal Corporation	Local Government Areas (LGAs) including the City of Sydney, Bayside Council, Sutherland Shire Council, Randwick City Council, Waverly Council and Woollahra Municipal Council

Murdi Paaki Regional Assembly (MPRA)	One representative from each Community Working Party for the 16 constitutive communities (MPRA, 2016)	Western NSW: Bourke, Brewarrina, Broken Hill, Cobar, Collarenebri, Coonamble, Engonia, Goodooga, Gulargambone, Ivanhoe, Lightening Ridge, Menindee, Walgett, Weilmoringle, Wentworth/Dareton, and Wilcannia
North Coast Aboriginal Development Alliance	'[R]epresentatives from across the Northern Rivers; inclusive of Health, Social Justice, Local Government, Youth, the Aboriginal Land Council Network, Housing, Education, Family and Wellbeing' (North Coast Aboriginal Development Alliance, n.d.)	North Coast of NSW: Ballina, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley and Tweed LGAs
Northern Region Aboriginal Alliance	Two representatives from the NSW Aboriginal Land Council Northern Region and one representative from Incorporated Aboriginal Community Controlled Organisations aligned to one of eight portfolios: Land & Cultural Heritage; Education; Economic Development & Employment; Housing; Community Healing, Well-being Children & Families; Social Justice; Health (including Aged Care and Disabilities); and Arts (Northern Region Aboriginal Alliance, 2020)	The LGAs of Armidale, Glen Innes, Gunnedah, Guyra, Inverell, Liverpool Plains, Muswellbrook, Singleton, Tamworth, Tenterfield, Upper Hunter, Uralla, Walcha, Warrumbungles
Riverina-Murray Regional Alliance	Representatives of each of the Community Working Parties (CWPs) from 10 member communities (Riverina-Murray Regional Alliance, n.d.)	Albury, Cootamundra, Cummeragunja (non-active member), Deniliquin, Griffith, Hay, Leeton, Narrandera (non-active member), Wagga Wagga, Tumut
Three Rivers Regional Assembly (TRRA)	Two representatives from each of 12 communities, drawing from their Local Aboriginal Land Councils (currently 19 members) or Aboriginal Community Working Parties (currently three members), with two delegates currently inactive (Three Rivers Regional Alliance, 2021)	Bathurst, Dubbo, Gilgandra, Mudgee, Narromine, Nyngan, Orange, Parkes, Peak Hill, Trangie, Warren and Wellington
Tribal Wave Assembly*	One male and one female representative from each of six Local Assemblies aligned to LGAs (Tribal Wave Assembly, 2019)	LGAs of Coffs Harbour, Bellingen, Nambucca Valley, Kempsey, Port Macquarie, and Mid Coast
Western Sydney Aboriginal Regional Alliance	No publicly available information	Western Sydney

Note: *At the time of writing in June 2021, Tribal Wave Assembly is no longer listed on the Aboriginal Affairs NSW website and does not appear to be an active participant in the LDM initiative.

The value of regional representation in NSW

Local and regional structures of First Nations representation have long been recognised as a promising way to organise First Nations relations with governments. This transformative potential is based in the strengths and diversity of First Nations peoples, histories, experiences, geographies, priorities and ways of doing business (Hunt et al., 2008). The local and regional scales of First Nations representation are interdependent and intersect due to the various networks that permeate Indigenous community and political organisation. First Nations political regionalism not only reflects the cultural geography of ties to Country, family and polity, but also the articulation of 'traditional' regions with 'other contemporary kinds of administrative, jurisdictional and functional regions' (Smith, 2005, p. 4).

In NSW, there has long been an appetite for regional level authority to be the leading architecture in Aboriginal polity. For example, at certain times the organisations representing the rising Aboriginal Movement of the 1920s and 1930s often adopted regional branch structures (Goodall, 1982; Maynard, 2007). Indeed, the initial Aboriginal Land Council model in NSW was based on three tiers: local, regional and state. The network was intended to be locally and regionally oriented, with most resources and decision-making taking place at the regional and local level with the state office performing a minimal function (Norman, 2015). Analysing the contemporary Indigenous sector in NSW, Norman, Apolonio and Parker (2021) document a shift in NSW in recent decades from 'organising as a community' to organising as 'nations' and 'political communities', a recognition that is premised on a resistance to the dichotomy between representative and service delivery organisations.

It has been suggested that:

> …the legitimacy of governance arrangements, and hence Indigenous people's preparedness to support them, rests on…having representative structures and decision-making processes that reflect contemporary Indigenous views of what are the 'proper' relationships, forms of authority and cultural geographies (Hunt & Smith, 2007, p. 27).

Thus, when the Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples inquired into arrangements for a First Nations representative body, it concluded that the 'most significant' design principle garnered from the evidence they considered was 'the strong support for local and regional structures' (Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018, p. 10).

This view is sometimes described in terms of a First Nations principle termed 'subsidiarity'. According to Smith (2004, p. 18), subsidiarity suggests that:

> …issues should be handled by the most competent and appropriate authority available. This means that no higher centralised level or scale of political aggregation should undertake functions or tasks which can be performed more effectively at an immediate or local level. Conversely, centralised forms of government should undertake initiatives which exceed the capacity of individuals or communities acting independently.

This Indigenous principle of political organisation arises, according to Smith (2004, p. 18), from the 'forms of traditional Indigenous political, social and economic agency…there is a cultural geography and sociology to identifying the politically responsible group for Indigenous decision making, participation and representation'. A considerable body of research suggests that a better match between the geography and form of representative structures and Indigenous principles and preferences will have significant impact on organisational

effectiveness (e.g. Hunt et al., 2008). However, if roles and responsibilities for the different actors in a governance network are not clearly defined, these initiatives are likely to fail.

Local and regional structures of First Nations representation have other practical benefits. As Lowitja O'Donoghue (1986, p. 16) reported in the 1980s:

> *Regional assemblies are seen by many Aboriginals [sic.] as the most important part of any new [Indigenous representative] organisation; not only because of the community basis of its structure, but also for its ability to provide a forum for the members of the new organisation to provide feedback to the community.*

Support for regional assemblies arose, according to O'Donoghue, from 'a strong desire to have an organisation which was firmly based in, and accountable to, communities' (1986, p. 38). O'Donoghue's views were prefigured in reviews of various Indigenous representative bodies that preceded the 1986 report, such as Nugget Coombs' recommendation that the Commonwealth establish 'at the regional level of a series of Regional Aboriginal Congress Assemblies…as the instruments of Aboriginal self-government within their respective regions' (1984, p. 35; see also Hiatt et al., 1976). These views have also been echoed in more recent years. For example, the final review of ATSIC stated that while the ATSIC Regional Councils functioned well, ATSIC as a whole had become a 'top down body' (Hannaford et al., 2003, p. 32). The Hannaford, Huggins and Collins review panel argued that: (Hannaford et al., 2003, p. 32):

> *To fulfil its charter, engage its constituents and strengthen its credibility, ATSIC must go back to its people. The representative structure must allow for full expression of local, regional and State/Territory based views through regional councils and their views should be the pivot of the national voice.*

NCARA and regional representation

NCARA members, perhaps unsurprisingly, believe the LDM model of ARAs – and NCARA itself – reflect these principles of representative proximity and accountability to Aboriginal communities and regions in NSW. Indeed, according to its members, NCARA is a body is driven by the regions:

> *There also seems to be a perception that NCARA dictates what the Alliances are doing, when it's the complete opposite way around. The Alliances [and other Aboriginal community organisations] dictate to NCARA how they want to go. (Haylee Rogers, NCARA Senior Project Officer)[8]*

On the question of who is being represented, NCARA members argue that although they are drawn from other organisations, they represent their communities, not those organisations. This is consistent with the intent of the LDM policy (Aboriginal Affairs NSW, 2017b).

> *We're for communities…because our delegates come from the community. They may work for some of these community-controlled service organisations, but they come to us as a delegate, not as a representative of that organisation. (John Fernando, Riverina Murray Regional Alliance Chairperson)*

NCARA members see themselves as a voice for their local and regional communities that can hold government and other service providers accountable, including the non-Indigenous non-government organisations that have

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[8] Quotations in this section are drawn from fieldwork conducted with NCARA representatives in three forums between April and June 2021. Participants expressed the wish to have these quotes identified so that they can be accountable to their communities and ARAs for the views they express here.

held, and continue to hold, considerable responsibility for service delivery in regional NSW. NCARA's ability to hold government and service providers to account comes from their regional basis:

> …in the absence of NCARA, when it didn't exist, in the absence of LDM, we were reliant and dependent on other people making decisions for us. It was a corporate voice coming through, but it didn't actually give the community a voice…Because NSW Government listens to community, and to me, community is unincorporated. You've got to understand they are coming from an unincorporated voice. (Des Jones, Co-Chair of NCARA, MPRA Chairperson)

> We are the people who sit on the ground, we are part of our communities. When we come to Sydney, we're talking about stuff that actually impacts our Aboriginal people on the ground, because we are part of those communities and we see that stuff first hand. So that's helping shape government policy because we can be the truth tellers, and hold services accountable. Like if what government is projecting, if what services are projecting isn't necessarily true, we can help balance that. (Haylee Rogers, NCARA Senior Project Officer)

This was contrasted with the centralised delivery of services by state-wide agencies:

> …we live in our communities. So we're more accountable because people can see us…[Other agencies and organisations are] not living in their communities, they're actually living in Sydney or somewhere else like that. They're so far removed from what's actually happening on the ground. (Vickie Parry, Co-Chair of NCARA, Barang Regional Alliance Chairperson)

As another alliance member put it more succinctly, 'we know if there are gaps between what policy says and what happens on the ground' (Kate Kelleher, Barang Regional Alliance Board member). This local knowledge extends beyond the implementation or non-implementation of government policy. Another NCARA member described local knowledge as a key strength of Aboriginal Regional Alliances, because 'we know what's going on in our communities, and we know what's needed, and we're working with our communities' (Vickie Parry, Co-Chair of NCARA, Barang Regional Alliance Chairperson). Such local knowledge is leveraged to influence policy implementation, something which NCARA members stress happens in the regions:

> On the ground…there's real change. We're working with schools, working with directors on the… changes they're making. I go into the schools, and I'm talking to the principal. This is where the change is done. But it's not going to be done up in Sydney. (Paul Carr, Three Rivers Regional Alliance Chairperson)

As well as being a voice to government, NCARA sees itself as providing a mechanism by which the communities within their footprint can hear from government, fostering two-way communication between government and communities. This role is once again facilitated by the regional and local basis of the ARAs that comprise NCARA.

> We're independent, self-determined, and autonomous…We are a conduit of information between government and community. We get that information at the state level that we can then transfer back down to the community...We are also trusted and credible partners – we have a lot of people who want to come and talk to NCARA, because they know we are willing to work with them to actually make the change, we're not just here for our own selves. (Haylee Rogers, NCARA Senior Project Officer)

Further, NCARA offers a forum for lateral communication and mutual support among ARAs. NCARA's Senior Project Officer likened the forum to a 'support group', 'connecting all Aboriginal people across the state and understanding what works, and what could be adopted in other regions and what doesn't work' (Haylee Rogers, NCARA Senior Project Officer).

The local accountability of NCARA and ARA members is a key factor influencing the success or failure of these efforts. As one NCARA member put it:

> If people didn't trust me, I wouldn't be sitting here. It self-regulates. They know who they want to put at the table to have a yarn…You're not going to get people at the table here who generally don't represent their community or interests, or fight for them. You're going to get people who are well connected, have a bit of a track record, and aren't frightened to speak. (Des Jones, Co-Chair of NCARA, MPRA Chairperson)

Another delegate put it more bluntly:

> I was in there [as Chair] for four years. So why would the community put me there if they didn't want me? If they didn't want me there, I wouldn't have been for one year, let alone for the time I was put there… When the community doesn't want me, they'll tell me. (Geoff Maher, Illawarra Wingecarribee Alliance Aboriginal Corporation Chairperson)

It appears that NCARA members see themselves as being well-positioned to operate in a manner similar to that of a wider representative body for the First Nations residents of the LDM regions, rather than only representing service-delivery matters. It is unclear if NCARA currently has the mandate among constituent communities to make such a transition, however.

These accounts by NCARA members illustrate the potential benefits of regional Indigenous representative structures for NSW Aboriginal communities and Australian governments, such as:

- providing a mechanism for Aboriginal communities to hold governments accountable

- scrutinising the implementation (or non-implementation) of policies and programs in regional communities

- connecting Aboriginal communities to government, and providing a voice for regional communities to speak back to government on service delivery matters

- identifying regional priorities for Aboriginal communities with regards to service provision

- influencing the design and delivery of government programs and facilitating shared decision-making about service delivery issues with government

- holding a mandate to represent regional Aboriginal communities on service delivery issues. This mandate arises from alignment with existing First Nations political communities, and from accountability structures whereby community organisations and individuals contribute to determining ARA agendas and actions.

Aligning regional representation with evolving national policies

Understanding different models of representation: Three case studies

Recent shifts in national policies have understandably resulted in questions about how established regional forms of representation, such as those involved in NSW's LDM initiative, will be aligned with new policy priorities and processes. We note there is considerable concern about the perceived competition between pre-existing representative bodies for influence in policy-making processes and subsequent access to resources and

funding. For example, in their initial response to the Indigenous Voice Co-design Process's *Interim Report 2020*, NACCHO (2021, p. 3) argued that:

> *Aboriginal and Torres Strait Islander people already have a voice to the Federal Government [in NACCHO and other peaks]…That voice is based firmly on the principles of self-determination and community-control…NACCHO and other community-controlled organisations across the country face the risk that their voice will be muted because of the substantial funding and privileged access that will be given to the Government's voice. NACCHO does not want this to happen.*

However, there are risks with the view that there can only be one single representative structure, such as a peak body for the Indigenous community-controlled service delivery sector. The privileging of one representative structure risks overlooking the powerful and often complementary contributions of other representative structures. It is based on a misunderstanding that a single representative structure is fit for every purpose, and conflates service delivery with self-governance and self-determination. Table 2 shows that NCARA, the Closing the Gap strategy, and the proposed Local and Regional Voices all tend toward different models of representation. NCARA and the proposed Local and Regional Voices share a similar regional structure of representation, but differ in terms of their scope, with NCARA focusing on service design and delivery and the proposed Local and Regional Voices providing a more wide-ranging form of representation. NCARA and NSW CAPO also share similarities in terms of their focus on service design and delivery, but differ in terms of who they represent, noting that some of the organisations represented by NSW CAPO may also have delegates participating in Aboriginal Regional Alliances and NCARA.

Table 2   Comparing different modes of representation for First Nations representative bodies in NSW

	Representation about what?	Representation of whom?	Representation by whom?
NSW Coalition of Aboriginal Regional Alliances (NCARA)	Service design and delivery	Regional Aboriginal communities in NSW	Delegates of ARAs
Coalition of Peaks (COP) (national) and NSW Coalition of Aboriginal Peak Organisations (NSW COPA)	Service design and delivery	Aboriginal and Torres Strait Islander community-controlled organisations (e.g. health organisations), professional associations (e.g. Australian Indigenous Doctors' Association), and independent statutory authorities (e.g. Northern Territory Land Councils)	Representatives of peak organisations, professional associations and independent statutory authorities
Proposed Local and Regional Voices	Political representation	Regional Aboriginal communities	Variable, but drawing on existing structures with similar purposes and functions

Given the three case study organisations differ in terms of their constituents and scope, there is clearly room for co-existence. Both the national COP and NSW CAPO are well placed to advocate on the basis of policy and service delivery portfolios (e.g. Health, Education, etc.) with national and state-wide perspectives respectively, and to represent the interests of the constitutive peak service organisations. In contrast, ARAs can take a place-based approach to priority setting, accountability for service delivery on the ground, and communication,

representing the interests of regional Aboriginal communities and bringing local knowledge to high-level policy development. These distinct roles are not equivalent.

To mitigate a potentially damaging competitive dynamic, it is important that all parties involved in Closing the Gap and Indigenous Voice processes, especially governments, make a clear commitment to recognising established forms of local and regional representation. This could involve co-developing a roadmap to recognise the co-existence and complementarity of NCARA, ARAs, and national and state peak bodies in the current policy landscape. Such a roadmap must delineate how these institutions sit side-by-side, and clearly demarcate their decision-making powers and authority, their roles and responsibilities. This must include a robust assessment of exactly what kind of representative role existing and newly proposed structures are actually fulfilling, and how those might best be networked into an overall framework.

In the case of NSW, the development of a roadmap of this type is enabled by the fact that Closing the Gap, LDM and proposed models of Indigenous Voice are based on similar principles of shared decision-making. All three policy architectures share a fundamental commitment to changing how governments do business with First Nations people, including changing the cultures and practices within bureaucracies. Indeed, the Local and Regional Voices in the proposed Indigenous Voice are designed to build upon existing local and regional architectures, such as the ARAs involved in LDM. However, it is not currently clear how that would be achieved. Our research consistently reveals that this is a cause for considerable concern at the local level for those who see themselves working 'on the ground'. Both the Closing the Gap and Indigenous Voice processes, we argue, will therefore be strengthened if they effectively align with existing bodies focused on local and regional representation, while encouraging the continued development of such bodies in localities and regions that are currently under-represented in state and national policy processes.

The case for co-existence

The National Agreement on Closing the Gap positions 'place-based partnerships' as one of two types of partnerships necessary to the successful implementation of all Priority Reforms. 'Policy partnerships', focused on discrete policy areas such as health, housing or education, are the other type of partnership mentioned and will presumably be the primary focus of the partnership with peak organisations (COP & Australian Governments, 2020, pp. 5–6). While peak organisations are already defined and, as described above, were actively involved in the agreement making process for the Closing the Gap 'refresh', local parties and partnerships remain to be defined and recognised. It is important that the process of defining and developing place-based partnerships, as part of the Closing the Gap agreement, is one that strengthens and builds the capacity of First Nations people, rather than creating another set of regional structures for policy partnerships. Recognition of already existing local and regional processes for representation is essential to avoiding unnecessary and expensive duplication of organisational functions.

Local and regional representation such as that already trialled and modelled through the LDM processes in NSW are a logical starting point for development of place-based partnerships as part of the Closing the Gap. The local grounding of ARAs offers a useful point of articulation in the context of the Closing the Gap reform agenda. There is notable overlap in the principles and values that underpin the LDM and Closing the Gap approaches, with both programs focusing on service delivery. Both aim to transform the ways that government agencies do business with Aboriginal communities, in terms of cultural competency and beyond. Both focus heavily on the provision of making previously inaccessible administrative data available to Aboriginal representatives, an area in which LDM has already made considerable strides. Both LDM and Closing the Gap are intended to change the way services are funded, with the COP seeking to increase the proportion of services delivered through the community-controlled sector and LDM promising that in future, ARAs will be allocated a 'flexible fund' from which they can direct government money to services and projects that they want

delivered (COP, 2021b). Finally, both processes focus on agreement making about service delivery as a core activity. This correspondence in principles and priorities offers considerable scope for successful alignment of ARAs with the national Closing the Gap process.

In terms of the Closing the Gap targets, there is an alignment between the outcomes agreed to in the Accords signed (and those currently under negotiation) between ARAs and the NSW Government, and many of the 17 targets agreed to in the National Agreement. Implementation of the actions already agreed to under the Accords will contribute to NSW Government's capacity to meet its Closing the Gap commitments.

Indeed, we suggest that LDM provides a mechanism by which the NSW Government's commitments in Closing the Gap could be implemented. If Closing the Gap targets are to be met, they must be met on the ground and in the regions where disadvantage is most acute. And in NSW, Indigenous socioeconomic disadvantage tends to increase with increasing distance from Sydney. For example, residents of the Murdi Paaki region are, on average, among the most socioeconomically disadvantaged 8% of the First Nations population in NSW, according to our analysis of 2016 Census data.[9] The population of the footprints of Tribal Wave Assembly, the Northern Regional Aboriginal Alliance, Three Rivers Regional Alliance, the North Coast Aboriginal Development Alliance, and the Riverina Murray Regional Assembly are, on average, among the most socioeconomically disadvantaged half of the NSW First Nations population.

The LDM policy has laid some of the foundations for gaps to be closed in regional NSW, insofar as a whole-of-government place-based approach is necessary. Through the Accord negotiation and implementation processes, ARAs have formed relationships with relevant senior government officials. Furthermore, the Accord-making process provides a mechanism to bring local and regional intelligence about service design and delivery, to identify issues and to negotiate to mitigate these issues. Finally, ARAs already have a degree of capacity through the LDM program which could be brought to the Closing the Gap priorities without weakening the intent of the LDM program. In short, many ARAs are well placed to be key contributors to the implementation of the Closing the Gap agenda in NSW.

It should be noted, however, that ARAs are at different stages in their development and currently have quite different levels of resourcing and organisational capacity. Adequate resourcing of existing and emerging local and regional bodies across Australia will be an important consideration for the governmental partners in the Closing the Gap National Agreement. Adequate resourcing of local organisations will be essential if place-based partnerships between governments and First Nations peoples are to successfully meet local and state-wide needs and agendas.

Aligning regional representation with the Indigenous Voice

In contrast to the policy architecture for shared decision-making that underpins the new National Agreement on Closing the Gap, the question of regional representation has been significant in the design considerations of the proposed Indigenous Voice throughout the co-design process to date. The design of the proposed Local and Regional Voices in the Interim Report is specifically supposed to articulate with structures such as ARAs. Langton et al. (2020, p. 93) report that:

> New South Wales Local Decision Making…regions are already working in a way similar to that envisaged for Local and Regional Voices and will be well positioned to transition to local and regional voice arrangements.

[9] Based on the authors' calculations using the 2016 Index of Relative Socio-Economic Outcomes (IRSEO) (see Biddle, 2013; Biddle & Markham, 2017) at the 'Indigenous Area' level of geography and concorded to our unofficial approximation of boundaries for ARAs.

There is a clear intention here that 'existing arrangements [such as LDM] are built on, enhanced or expanded' (Langton et al., 2020, p. 97). In short, it seems likely that the Indigenous Voice, if implemented along the lines suggested by Langton et al. (2020), will draw inspiration from and build upon the representative structures of LDM.

Given that LDM was initially established as a service-delivery policy initiative, not a self-governance political initiative, it will be important not to undermine these local and regional processes. There may be potential for ARAs to broaden their scope of representation from service delivery to political representation. If ARAs are to successfully transition into providing the proposed Local and Regional Voices, it will be critical that they and NCARA continue to build their mandate and legitimacy among the communities that they represent.

The NSW Government have noted the potential alignment between LDM and Indigenous Voice, suggesting that '[r]egional alliances could expand their purview to giving local and regional contexts to national issues…and expand interactions with Commonwealth agencies and local governments' (NSW Department of Premier and Cabinet, 2021, p. 4). In the same document, it is also suggested that regional groupings of Local Aboriginal Land Councils might also form the basis for Local and Regional Voices. The potential for networked forms of governance in which Local Aboriginal Land Councils form part of ARAs (as is already happening in half of the ARAs) suggests that these possibilities may not be as mutually exclusive as they might at first appear.

Ideally, the alignment of ARAs with Local and Regional Voices may have the positive result of strengthening both the proposed Indigenous Voice and LDM initiatives. As NCARA delegates noted, ARAs already benefiting from Commonwealth funding in addition to LDM-specific funds tend to have greater resourcing, which augments their ability to represent their communities. However, there is a risk that some features of the LDM initiative that currently support the self-determination and effectiveness of ARAs may be watered-down by the proposed Indigenous Voice. Specifically, the Interim Report proposes that Local and Regional Voice structures be established in only 25–35 regions across Australia, which translates into 5–7 regions across NSW (Langton et al., 2020, p. 90). The NSW Government suggest that an allocation of 11–12 Local and Regional Voices to NSW (out of 35 Voices across Australia) would be fairer (NSW Department of Premier and Cabinet, 2021, p. 5). However, the number of LDM regions is likely to increase substantially from the current 10 if LDM is to attain full coverage of the state. Consequently, the proposed smaller number of Local and Regional Voices may force distinct LDM regions into larger blocks, even if only for the purpose of participating as a Local and Regional Voice. This would reduce the appropriateness of a regional approach, merging neighbouring regions that share little affiliation as political communities, with potential adverse impacts on legitimacy and representative mandate. It may also serve to undermine the effectiveness of the existing ARAs, who might find themselves spending more time navigating relations with their neighbours than the priorities within their own regions. While larger amalgamated regions may appear to present an economy of scale, such economising is illusory if it impedes the effectiveness of regional bodies due to a misalignment with the geographies of actual First Nations polities (for an example of this problem, see Smith, 2008).

Opportunities for building Indigenous self-determination and effective policy outcomes

A closer alignment between regional representation and peak body representation into the new Closing the Gap and Indigenous Voice frameworks presents an opportunity to benefit from the potential strengths offered by different representative organisations and networks. A networked approach, accompanied by a clear demarcation of roles and responsibilities, is a key organising principle of First Nations governance in Australia (Hunt et al., 2008). The structure of these networks will necessarily reflect the complexities of policy development and service delivery in the Indigenous affairs space and will not always result in political consensus.

On one hand, as discussed above, there are many shared objectives in the underlying policy frameworks and between individuals and organisations involved in Closing the Gap and Indigenous Voice processes. Many of the organisations represented in ARAs are also organisations represented by the COP at the state level, forming nodes in a networked form of Indigenous political and economic organisation. Local Aboriginal Land Councils in NSW, for example, are members of five ARAs as well as being represented in the NSW CAPO. Similarly, many Aboriginal community-controlled organisations are represented both in an ARA and by an organisation that is a member of the COP. On the other hand, and despite the considerable commonality of interests and priorities among ARAs and the COP, there will also be situations where ARAs contribute community-driven and regional priorities and intelligence that differ from or contrast with the representations made by peak service delivery bodies. This does not necessarily indicate a problem. In the NSW context, LDM and NSW CAPO have different roles and therefore could represent overlapping constituencies for different purposes. NSW CAPO brings considerable subject-matter expertise to policy discussions, while ARAs and NCARA (and potential future Local and Regional Voices) can articulate community-driven local and regional priorities and intelligence, and provide a mechanism for implementing making change towards the Closing the Gaps in the regions.

While it is possible to conceive of the relationship between ARAs, NCARA, and NSW CAPO in terms of competition for government attention and favour, we see significant potential for these different representative structures to work together in complementary ways to strengthen state and national policy initiatives. Most of the members of the COP and NSW CAPO represent organisations (either government-funded service providers or statutory bodies) and are loosely structured in a manner similar the division of portfolios within government (e.g. health, justice, education, etc.). They have a particular relationship with government that is generally not primarily based on regional representation, despite the local or regional presence of some member organisations through their service provision organisations. Among those organisations that are funded service providers, priorities usually include retaining government funding to carry out services.[10] In contrast, local and regional models of representation, such as those of the LDM initiative, are specifically intended to facilitate participation, advocacy, and accountability to people and communities at a regional and local level.

While the representative structures fostered by Closing the Gap and LDM mostly focus on issues relating to service delivery, First Nations relations with the settler state involves political questions and negotiations on issues that exceed the scope of service delivery. Accordingly, the nature of representation in the proposed Indigenous Voice is likely to be different in character to the role of representation in Closing the Gap processes. Indigenous Voice provides one process for establishing and managing an ongoing political relationship between First Nations peoples and the settler colonial state (other possibilities including, for instance, treaties and constitutional recognition). This is distinct from the role of the COP in representing member-based peak bodies. As Langton et al. (2020, p. 133) note, 'many Aboriginal and Torres Strait Islander peoples are not represented by the Coalition of Peaks or other Aboriginal and Torres Strait Islander organisations'.

Better aligning the fit and collective efficacy of the network of potentially diverse perspectives of regional representative and peak organisations has advantages in terms of effective service delivery. However, it will require governments to understand that representative structures established as part of these processes are necessarily *political sites* of democratic engagement, self-determination, and self-governance of Indigenous peoples at local, regional and national levels. This means viewing disagreement as a sign of policy success and strength, rather than division, and recognising that a diversity of perspectives – including those from service

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[10] Despite this, not every member of NSW CAPO provide services or represent service providers. For example, the First Peoples Disability Network is a national membership-based and government-funded peak organisation representing Aboriginal and Torres Strait Islander people with disabilities.

providers and from regional communities – will ultimately improve the quality of decision making as part of state and national structures.

Finally, maintaining and diversifying First Nations' representative structures beyond the expertise of peak bodies offers a strategic benefit by offsetting the risk of a representation vacuum, should the Closing the Gap framework be overhauled at the national level. In recent decades, Commonwealth Indigenous affairs policy has been prone to repeated restructures of policy architectures (Anderson, 2015; Sanders, 2017), including with regard to both Indigenous representation and the implementation of the Closing the Gap. While the failure to achieve the Closing the Gap targets between 2008 and 2018 was attributed to governments alone, the new partnership model entails an agreement to share the blame should targets prove unachievable. As Bond and Singh (2020, p. 198) note, 'there is a danger that the…Indigenous peaks, many of which are reliant on federal funding…will be held responsible for any future policy failings'. This shared responsibility comes despite radical imbalances in the power of and resources available to the government and First Nations partners to the new agreement. Any such failure is likely to test the legitimacy of the COP as a representative body, given that its shortcomings are already being raised by some prominent First Nations voices (e.g. Davis, 2020; Taylor, 2020). Accordingly, policy instability in national Indigenous affairs presents a risk for state-level and First Nations governance alike. The risk that a representation vacuum be created by any perceived future failure of the new approach to Closing the Gap can be partially mitigated by maintaining and strengthening regional representative networks within each state. A long-term commitment to regional representative bodies is essential for maintaining institutional memory and capacity at the regional and state level over the longer term.

Concluding comments on networked architectures of representative bodies

It is incumbent on the NSW Government to work with First Nations regional representation and peak body representation to clarify their roles and responsibilities under national and state policy architectures, and to shift the discourse at the NSW state level from one of competition to one of complementary work on shared goals, priorities and mutual interests.[11] As we have argued, in the NSW context, the member bodies that make up LDM and the NSW COPA are united in many of their shared objectives, priorities, and in the overlapping groups of member organisations. However, these bodies also differ in whom they represent, their areas of expertise, the workings of their representative structures and processes, and their positions in the domain of service demand and supply and broader issues of self-determination. We argue that both Closing the Gap and the Indigenous Voice can only work if a diversity of perspectives is encouraged, expected and understood as a necessary prerequisite to both policy success and robust First Nations governance and self-determined development. It should be expected that different interests and preferences will arise out of successful representative processes and that not all issues that arise are going to relate solely to policy delivery priorities. The co-existence of multiple First Nations representative bodies will be much more productive if all parties to this network of structures have a clear understanding of both the boundaries and intersections of their authority and representative mandates.

Looking ahead, it is likely that the Closing the Gap framework will continue to be subject to regular revision, characterised by short- to medium-term goal-setting and a service delivery focus. Both the implementation of the Closing the Gap agenda in NSW and the LDM program should take into account the potential contributions of LDM structures and processes to Closing the Gap outcomes and vice versa. In relation to current proposals around the Indigenous Voice, it is imperative that Australian governments and other political actors acknowledge the necessarily ongoing nature of developing relationships between First Nations peoples and

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[11] We note that the recently published *NSW Implementation Plan for Closing the Gap* outlines part of the Government's position on this issue at present (NSW Government & NSW COPA, 2021).

Australian governments, and that this will be far broader than service delivery. Ultimately, conversations about the future of national- and state-level policy architectures must be supported by a robust articulation of the roles of First Nations regional and peak body representation.

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