



Governance of the National Agreement on Closing the Gap in NSW

PERFORMANCE AUDIT | 29 MAY 2025

NEW SOUTH WALES AUDITOR-GENERAL'S REPORT

ROLE OF THE AUDITOR-GENERAL

The roles and responsibilities of the Auditor-General and the Audit Office, are set out in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

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Following a financial audit the Audit Office issues a variety of reports to entities and reports periodically to Parliament. In combination, these reports give opinions on the truth and fairness of financial statements, and comment on entity internal controls and governance, and compliance with certain laws, regulations and government directives. They may comment on financial prudence, probity and waste, and recommend operational improvements.

We also conduct performance audits. These assess whether the activities of government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws. Audits may cover all or parts of an entity's operations, or consider particular issues across a number of entities. Our performance audits may also extend to activities of non-government entities that receive money or resources, whether directly or indirectly, from or on behalf of government entities for a particular purpose.

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In accordance with section 38EC of the *Government Sector Audit Act 1983*, I present a report titled '**Governance of the National Agreement on Closing the Gap in NSW**'.

A handwritten signature in black ink, reading 'Bola Oyetunji'.

Bola Oyetunji

Auditor-General for New South Wales
29 May 2025

RECONCILIATION STATEMENT

We pay our respects and recognise Aboriginal peoples as the traditional custodians of the land in NSW who have cared for and protected the environment, waterways, and sacred sites over many millennia. We honour and thank the traditional custodians of the land on which our office is located, the Gadigal people of the Eora Nation, and the traditional custodians of all the lands on which our employees live and work. We pay our respects to their Elders past and present, and to the next generation of leaders.

We acknowledge that our long history of helping to foster accountability and transparency in the government and Parliament is also shared with the histories of colonisation and the resulting disadvantage of Aboriginal and Torres Strait Islander peoples in this state.

We embrace our role in holding government agencies to account for the delivery of effective services for Aboriginal and Torres Strait Islander peoples. We are committed to ensuring that our audits are culturally responsive, respectful and inclusive, and that we engage with Aboriginal and Torres Strait Islander peoples and communities in a meaningful and collaborative way.

We recognise the ancestral tie of Aboriginal and Torres Strait Islander peoples to this land, and we acknowledge that we have much to learn from their wisdom, rich and diverse culture, languages, knowledge and practices.

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Section 1 –

Governance of the National
Agreement on Closing the
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1. Executive Summary

Context

The NSW Government signed the National Agreement on Closing the Gap (the National Agreement) in July 2020. The parties to the National Agreement are the Australian Government, all state and territory governments, the Coalition of Peaks, which is a group of around 80 Aboriginal and Torres Strait Islander community-controlled peak organisations, and the Australian Local Government Association. The stated objective of the National Agreement is:

‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians’.

The National Agreement seeks to make fundamental structural and cultural reforms to the way governments work with Aboriginal and Torres Strait Islander people. The NSW Government describes it as ‘an unprecedented shift in the way governments work’. The National Agreement also includes challenging targets for improvements in specified social and economic outcomes for Aboriginal and Torres Strait Islander people.

The National Agreement sets out four Priority Reforms intended to underpin the approach to all policies and projects that affect the lives of Aboriginal people. All parties to the National Agreement agreed to these reforms and committed to taking action to implement them. The Priority Reforms are:

- formal partnerships and shared decision-making
- building the Community-Controlled sector
- transforming government organisations
- shared access to data and information at a regional level.

NSW added a fifth Priority Reform that focuses on economic development, in addition to the four Priority Reforms in the National Agreement.

The current National Agreement follows a previous agreement – the National Indigenous Reform Agreement (NIRA) – that was in place for a decade from 2008. Reviews of the NIRA found that it did not achieve its main objectives, with a key weakness being limited involvement of Aboriginal and Torres Strait Islander people in its design and implementation.

The implementation of the National Agreement in NSW is led by the Premier’s Department (via the Aboriginal Affairs NSW group) and the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO). The NSW Closing the Gap Partnership Agreement (NSW Partnership Agreement) sets out the agreed approach for implementing the National Agreement in NSW. It was signed in February 2024 and includes guidance on how parties should work together to implement the National Agreement, including respective roles and responsibilities and principles for working in partnership.

The Premier’s Department’s responsibilities under the NSW Partnership Agreement include leading and coordinating the work of the NSW Government on the National Agreement and working in partnership with NSW CAPO. NSW CAPO is a coalition of peak organisations for Aboriginal Community-Controlled Organisations (ACCOs) in NSW. NSW CAPO member organisations are non-government organisations that describe themselves as advocates for the rights and well-being of Aboriginal people in NSW. NSW CAPO’s responsibilities under the NSW Partnership Agreement include advocating for action, holding the NSW Government to account for its commitments under the National Agreement, and working in partnership with the NSW Government.

The NSW Partnership Agreement requires the NSW Government to work to embed the Priority Reforms at all levels of the NSW Government. Specific initiatives under the National Agreement are being delivered by NSW Government agencies, with the majority of these delivered by the Department of Communities and Justice, the Department of Education, and NSW Health.

Audit objective

This audit assessed the effectiveness of the governance arrangements for the implementation of the National Agreement on Closing the Gap in NSW.

The audit considered the design, implementation and conduct of the governance arrangements in place for the National Agreement in NSW. This includes the structures, processes and relationships that are used to guide decision-making and provide oversight and accountability. Three key areas of focus are: the governance arrangements for implementation of the National Agreement across NSW Government agencies, the partnership between the Premier's Department and NSW CAPO, and NSW CAPO's internal governance processes.

The audit did not assess the implementation of specific initiatives under the National Agreement, as these are subject to other reporting and accountability processes. The audit scope did not include the role of Local Government NSW or the governance arrangements for the National Agreement at the national level.

The audit did not assess, and does not comment on, the merits of the National Agreement itself or government policy. Its recommendations are aimed at improving the governance of the National Agreement in NSW.

Conclusion

The governance arrangements for the National Agreement on Closing the Gap in NSW are not operating effectively. There are formal shared governance bodies that include senior representatives from the NSW Government and NSW CAPO, but this governance structure does not ensure accountability for the delivery of National Agreement initiatives. The Premier's Department and NSW CAPO agreed to work together to lead the implementation of the National Agreement, but they have not formed a genuine partnership as described in the National Agreement and NSW Partnership Agreement. Some changes to the governance arrangements have been made recently, which may help to improve oversight of the implementation of the National Agreement. However, the changes do not provide clear accountability for the adoption and implementation of the National Agreement across the NSW Government.

Key governance forums were established for the implementation of the National Agreement in NSW, with the aim of supporting communication and partnership development between the NSW Government and NSW CAPO. This is an important first step in implementing the National Agreement. However, the Premier's Department has not used the governance arrangements to ensure that all NSW Government agencies are accountable for the adoption and implementation of the Priority Reforms of the National Agreement. The key governance forums do not provide effective strategic guidance for the implementation of the National Agreement. The governance arrangements do not provide adequate oversight of delivery, with a passive approach to monitoring the progress of project expenditure. NSW CAPO does not have adequate internal governance processes for demonstrating probity and transparency for the involvement of its members in the National Agreement.

The Premier's Department and NSW CAPO have attempted to establish a working relationship for the governance of the National Agreement, but a genuine partnership, as described in the National Agreement and the NSW Partnership Agreement, has not been achieved. There is disagreement between the Premier's Department and NSW CAPO about their respective roles and responsibilities, what working in genuine partnership means in practice, how funding for partnership work should be administered, and how to align existing NSW Government policies and programs with the National Agreement. These disagreements detract from a focus on the effective governance of the National Agreement.

Key findings

The Premier's Department has not ensured there is accountability across the NSW public sector for the delivery of the National Agreement's Priority Reforms

The Priority Reforms set out in the National Agreement are the key mechanism for achieving the overall objectives of the National Agreement and are intended to address some of the factors contributing to the failure of previous agreements, policies and programs. The Premier's Department has not been effective in communicating the purpose of the National Agreement to NSW Government agencies or influencing whole of government activities. It has provided limited information about the purpose and goals of the Priority Reforms and has not produced clear guidance on how NSW Government agencies can put them into practice. For example, the Premier's Department has not produced detailed guidance or support materials for agencies seeking to conduct work in partnership with Aboriginal organisations.

Some individual projects conducted under the National Agreement have established effective partnerships and are beginning to demonstrate positive results. For example, NSW CAPO, The Cabinet Office and the Premier's Department have worked on a project that aims to make it easier for Aboriginal people and community organisations to access and use data that is relevant to them. This work has been conducted in line with the partnership principles set out in the National Agreement, with clear processes to support collaborative work and shared decision-making. Projects such as this one could be better promoted as examples for other agencies to follow. A more active approach is urgently required to ensure NSW Government agencies are accountable for the adoption and implementation of the Priority Reforms.

The Premier's Department and NSW CAPO have not established a genuine partnership that aligns with the principles set out in the National Agreement and NSW Partnership Agreement

The Premier's Department, via the Aboriginal Affairs NSW group, and NSW CAPO share responsibility for the governance of the National Agreement in NSW. The NSW Partnership Agreement sets out principles for partnership work that include transparency, accountability, acknowledgement of the demands of shared decision-making, mutual respect and inclusion. These principles have not been followed in practice.

The NSW Partnership Agreement describes the roles and responsibilities of the Premier's Department and NSW CAPO that were agreed at the time of signing. The roles assigned to NSW CAPO include advocating for action to implement the National Agreement and holding NSW Government agencies to account for following through on commitments made under the National Agreement. There is a tension between this advocacy role and the commitment to work in partnership with the NSW Government. This tension is not being managed effectively. The Premier's Department has expressed the view that NSW CAPO has not always fully engaged with the NSW Government as a genuine partner. NSW CAPO has argued that the concept of partnership has sometimes been used to diminish its role as an independent advocate for Aboriginal people. Disagreement about this fundamental aspect of the governance of the National Agreement has significantly contributed to the parties' inability to establish effective governance arrangements.

There have also been numerous practical problems with the operation of the partnership between the Premier's Department and NSW CAPO. A Joint Secretariat comprising staff from the two entities has been in place for several years, but, in practice, each organisation has established its own structures and operated separately. There have been a series of disagreements between NSW CAPO and the Premier's Department about the administration of partnership funding. These were not resolved in a timely manner, exacerbating tensions in the relationship between staff in the Aboriginal Affairs NSW group and NSW CAPO.

Some NSW CAPO members have stated that funding for partnership work has not been sufficient to cover the amount of work required for them to participate meaningfully in the governance arrangements for the National Agreement. Funding was allocated to NSW CAPO to prepare a proposal for a sustainable funding model for partnership work in 2022. This work was only completed in late 2024 and was not prepared in partnership with the NSW Government. The proposal did not include detailed analysis of the work hours required for NSW CAPO members to participate fully in partnership work.

The Premier's Department and NSW CAPO do not agree on how to align existing policies with the National Agreement in NSW

The National Agreement states that parties commit to 'aligning relevant policies and programs to the Agreement'. Almost five years after the National Agreement was signed, the details of how this should work in practice have not been agreed. The Premier's Department and NSW CAPO disagree about how pre-existing policies such as the NSW Government's Plan for Aboriginal Affairs, *OCHRE* (Opportunity, Choice, Healing, Responsibility, Empowerment), and more recent treaty consultations, should be aligned with the National Agreement. The Premier's Department and NSW CAPO committed to the task of agreeing on the scope of work under the National Agreement by December 2023. This included developing a process for the alignment of relevant policies and programs, but this audit has not seen any evidence that this work has commenced.

The NSW Ombudsman tabled a review of *OCHRE* in January 2025 that reported there was confusion about *OCHRE*'s role in relation to the National Agreement. It recommended clarifying the relationship between *OCHRE* and the National Agreement and aligning their respective initiatives.

The governance arrangements do not provide effective oversight of the progress of projects being delivered under the National Agreement

The Joint Council is the key governance forum and decision-making group for the National Agreement in NSW. It has not been proactive in monitoring the progress of implementation plans, with minimal oversight of the progress of specific projects or overall progress, and limited review of the management of funding. The Joint Council did not include program risks as a standing agenda item in its meetings. The governance bodies have not received effective support from the Joint Secretariat, which is staffed by Premier's Department and NSW CAPO. Critical gaps include monitoring the delivery of initiatives and the reporting of expenditure. NSW Government agencies that are delivering initiatives under the National Agreement are accountable for their own expenditure, but monitoring project expenditure is a key aspect of program management that should be conducted by the Joint Council.

The NSW Government and NSW CAPO agreed to make changes to the governance arrangements for the National Agreement in NSW in 2022. These commenced in early 2025. The changes largely aim to streamline the governance arrangements and improve oversight of project delivery. They will also establish a formal role for the Secretaries Board, which aims to increase the involvement of senior public servants in the implementation of the National Agreement, particularly to support whole-of-government reforms. The Premier's Department describes the changes to the governance arrangements as significant.

When fully implemented, the changes may assist with supporting better program management and oversight. However, they do not provide a clear plan for overseeing accountability for the adoption of the National Agreement across the NSW Government and will not address the absence of genuine partnership between the Premier's Department and NSW CAPO, the two lead partners for the implementation of the National Agreement in New South Wales. This relationship is fundamental to the success of the governance arrangements.

NSW CAPO does not have documented processes to ensure probity

NSW CAPO members are directly involved in multiple elements of the governance and delivery of the National Agreement. In some cases, this means NSW CAPO members are involved in the design and oversight of projects that their member organisations, or in some cases they, will be funded to deliver.

NSW CAPO is not an incorporated association, which means it does not have formal legal obligations relating to corporate functions such as annual reporting and financial records. NSW CAPO advises that it includes conflicts of interest declarations as a standing item at its meetings and members have removed themselves from discussions on matters in which their organisation is involved. Our review of meeting agendas and minutes found that most meeting agendas did not include an item on disclosures of conflicts of interests. The audit was not provided with documented examples of conflicts of interest declarations or their management. Individual NSW CAPO organisations are subject to governance and reporting obligations for their work outside the National Agreement,

including probity requirements. This audit did not assess the probity policies and procedures of individual NSW CAPO member organisations and does not comment on these.

There are some probity processes in place for the Joint Council. For example, members are required to declare conflicts of interest. However, our review of meeting minutes did not identify any declarations of conflicts during this period, or any documentation of the management of actual or perceived conflicts.

Reporting on NSW CAPO members' use of funding for governance partnership work is not fully transparent

Approximately \$9 million was allocated to support NSW CAPO's participation in the partnership governance arrangements in 2022–23 and 2023–24 (described in Chapter 2). This funding was a part of a broader funding agreement between the Premier's Department and NSW CAPO which covered several activities related to the Priority Reforms in the National Agreement. The \$9 million was intended to fund 22 full-time equivalent positions: two staff at each of the eight NSW CAPO members and six staff in a central NSW CAPO Secretariat.

NSW CAPO provided annual financial reporting to the Premier's Department via the NSW CAPO Secretariat, as required under the funding agreement. This reporting included an acquittal of the amount of funding that was received and spent. The funding agreement did not require reporting on the number of staff employed using the funding. This means it did not show whether the \$9 million funding was used to employ 22 staff over two years, in the way that was planned. This audit requested information on the number of staff employed at NSW CAPO member organisations under the funding agreement but did not receive it from either the NSW CAPO Secretariat or the Premier's Department.

Implementation plans prepared for the initial years of the National Agreement did not provide strategic guidance or link clearly to the achievement of outcomes

The initial implementation plans for the National Agreement in NSW were too complex, with each containing hundreds of initiatives. This meant that implementation plans did not provide clear guidance on how the goals of the National Agreement will be achieved. Initiatives listed in implementation plans did not always link clearly to the outcomes and targets of the National Agreement. Implementation plans did not have a sufficient focus on the Priority Reforms, which are intended to be the foundation for the achievement of the outcomes in the National Agreement. These implementation plans were developed through the key governance forums established under the National Agreement and were signed off by the Joint Council (the peak decision-making forum).

The approach set out in implementation plans was unrealistic. Only 15% of actions listed in the 2021–22 implementation plan were completed. For the 2022–24 implementation plan, around half of the listed initiatives were reported as 'on track' in mid-2024. Of the remainder of initiatives, 28% were delayed and 21% had not commenced. These initiatives are supposed to contribute to achieving the targets for improvements in socio-economic outcomes and priority reforms set out in the National Agreement. The NSW Closing the Gap Annual Report for 2022 stated that seven of the 19 socio-economic targets were on track or had been achieved. Data was not available for three targets.

Weaknesses in governance arrangements are not the only factor contributing to limited progress. The heads of individual NSW Government agencies are responsible for specific initiatives under the National Agreement and are accountable for their delivery. However, the Premier's Department and NSW CAPO developed the implementation plans and have accountability for ensuring they provide the best possible framework for implementing the National Agreement in NSW.

Recommendations

These recommendations are directed to the audited entities based on the roles and responsibilities detailed in the NSW Partnership Agreement. However, implementation of all recommendations should be undertaken in line with the shared decision-making principles set out in the National Agreement and NSW Partnership Agreement.

By June 2026, the Premier's Department should:

1. Establish clear accountability for NSW Government agencies for the design, implementation, monitoring and evaluation of the National Agreement in NSW. Actions could include:
 - a) using formal communication and policy tools such as a memorandum or circular to clearly outline expectations for all NSW Government agencies
 - b) improving the transparency of the activities of NSW Government agencies by requiring agencies to report regularly and publicly on their actions and outcomes achieved under the National Agreement, including their work to build genuine partnerships with Aboriginal organisations
 - c) aligning pre-existing NSW Government policies and programs that relate to outcomes for Aboriginal people to the National Agreement – including the *OCHRE* plan and treaty consultations – as committed to in clause 104 of the National Agreement
 - d) ensuring that responsibility for the administration of operational funding for NSW CAPO's partnership governance work is assigned to the group within the Premier's Department that is best equipped for this task.

By December 2025, the Premier's Department and members of NSW CAPO should:

2. Start working in genuine partnership in line with the principles in the National Agreement by:
 - a) agreeing on and implementing methods for shared decision-making for partnership governance. This may include developing a charter that sets out roles and responsibilities, decision-making principles, communication protocols, and processes for resolving disputes. Consideration should also be given to using IT systems that facilitate collaboration between the entities.
 - b) agreeing on and implementing an evidence-based, sustainable funding model for NSW CAPO members' participation in partnership work for the National Agreement. This will require more detailed quantitative analysis to accurately estimate the work required for full participation in partnership work.
3. Improve the accountability for planning and oversight of the implementation of the National Agreement in NSW by:
 - a) ensuring all actions in future NSW implementation plans focus on, and clearly align with, the Priority Reforms from the National Agreement
 - b) implementing structured monitoring of the progress of projects, budget management and risks to delivery.

By December 2025, members of NSW CAPO should:

4. Develop and implement internal governance processes to:
 - a) manage probity issues arising from the involvement of NSW CAPO members in both the governance and delivery of the National Agreement, including clear and documented conflict of interest policies and procedures
 - b) increase the transparency of NSW CAPO's decision-making and expenditure for work conducted under the National Agreement, for example, by publishing an annual statement outlining work delivered by NSW CAPO members and the outcomes achieved.

2. Introduction

2.1. The National Agreement on Closing the Gap

The NSW Government signed the National Agreement on Closing the Gap (the National Agreement) in July 2020. The stated objective of the National Agreement is ‘to overcome the entrenched inequality faced by too many Aboriginal and Torres Strait Islander people so that their life outcomes are equal to all Australians’. The National Agreement sets out that parties to the agreement should work in ‘full and genuine partnership’ on policies that impact the lives of Aboriginal and Torres Strait Islander people.

The National Agreement was signed by the Australian and all state and territory governments, the Coalition of Aboriginal Peak Organisations (CAPO) and the Australian Local Government Association. It is not legislated or legally enforceable, but all parties to the National Agreement have committed to implementing it.

The National Agreement lists four Priority Reforms (see Exhibit 1) and specifies socio-economic targets in areas including health and well-being, education, housing, economic participation, justice, child protection, culture and language (see Appendix 2 for the full list).

Exhibit 1: Priority Reforms under the National Agreement

- Formal partnerships and shared decision-making
- Building the Aboriginal Community-Controlled sector
- Transforming government organisations
- Shared access to data and information at a regional level

Source: National Agreement on Closing the Gap.

The Priority Reforms are intended to change the way governments work to accelerate improvements in the lives of Aboriginal people. All parties to the National Agreement agreed to the Priority Reforms and committed to taking action to implement them. In addition to the four Priority Reforms in the National Agreement, NSW added a fifth Priority Reform focusing on economic development.

Clause 32 of the National Agreement specifies several elements that are required for strong partnerships, including being accountable and representative, having a formal agreement in place, sharing decision-making and being supported by adequate funding.

The National Agreement replaces a previous national agreement signed by the Australian and state and territory governments in 2008 – the National Indigenous Reform Agreement (NIRA). Previous reviews of the NIRA found that it did not achieve its main objectives. The Australian National Audit Office’s performance audit of the NIRA found there was limited involvement of First Nations stakeholders in the development of the agreement and poor governance, with unclear links between inputs, outputs and outcomes.

A key difference between the NIRA and the National Agreement is that Aboriginal organisations are signatories to the National Agreement, while the NIRA only included governments. This reflects the focus of the National Agreement on shared decision-making and genuine partnership between governments and Aboriginal organisations.

In January 2024, the Australian Government Productivity Commission (Productivity Commission) published a review of progress of the implementation of the National Agreement across all states and territories. It found that progress implementing the Priority Reforms in all governments was ‘slow and uncoordinated’. It added that the efforts to date were not aligned with the National Agreement’s intention to change the way governments work.

The Productivity Commission found that shared decision-making has rarely been achieved in the implementation of the National Agreement. The review found examples in which communities were only consulted on pre-determined solutions, rather than collaborating on priorities and jointly designing approaches to resolve issues. It also found multiple examples of government decisions that contradicted commitments in the Agreement.

2.2. Implementation of the National Agreement in NSW

The Premier's Department leads the NSW Government's work overseeing the implementation of the National Agreement. The Aboriginal Affairs NSW group, within the Premier's Department, is responsible for leading partnership work on the National Agreement on behalf of the NSW Government.

Aboriginal Affairs NSW was established in 2011 but has existed under different names and in different agencies since 1982, when it was set up to draft Aboriginal land rights legislation. It was moved into the Department of Premier and Cabinet (now the Premier's Department) in 2019.

The NSW CAPO is a coalition of peak organisations for Aboriginal Community-Controlled Organisations (ACCOs) in NSW. NSW CAPO member organisations describe themselves as advocates for the rights and well-being of Aboriginal people in NSW. NSW CAPO is not an incorporated association, which means it does not have the ability to enter into legal transactions and does not have formal legal obligations relating to corporate functions such as annual reporting and financial records.

The NSW Government and NSW CAPO have joint responsibility for implementing the National Agreement in NSW and share responsibility for its governance arrangements. The NSW Government, NSW CAPO and Local Government NSW signed the NSW Closing the Gap Partnership Agreement (NSW Partnership Agreement) in February 2024. The main purpose of the NSW Partnership Agreement is to guide the implementation of the National Agreement in NSW. It sets out the roles and responsibilities of each party (see Exhibit 2) and includes guidance on how parties should work together.

The Premier's Department is responsible for coordinating the implementation of the National Agreement on behalf of the NSW Government. Under the NSW Partnership Agreement, NSW CAPO's stated role is to provide an independent and coordinated voice to address issues affecting Aboriginal and Torres Strait Islander people.

Clauses 13–15 of the NSW Partnership Agreement outline partnering principles of transparency, accountability, mutual respect and inclusion. These principles also include an acknowledgement of the demands of shared decision-making and the need for agreement on agendas for discussions that lead to decisions. These are aligned with the strong partnership elements of the National Agreement.

The NSW Government and NSW CAPO agreed to develop implementation plans jointly and monitor their implementation. In addition, each party has specific areas in which it leads work. For example, the NSW Government is responsible for ensuring the active involvement of ministers and senior public servants in the implementation of the National Agreement and NSW CAPO leads consultation and engagement work with Aboriginal communities in NSW specific to the National Agreement.

Exhibit 2: Summary of roles and responsibilities under the NSW Partnership Agreement

Shared responsibilities (NSW Government and NSW CAPO)	<ul style="list-style-type: none"> • Develop implementation plans and monitor delivery of the commitments made in the implementation plans • Monitor progress against the National Agreement and other jointly agreed targets, indicators and action plans • Support national decision-making • Share quantitative and qualitative data to support accountability • Share decision-making on the design, implementation, monitoring and evaluation of policies and programs • Strive to ensure the views and expertise of Aboriginal and Torres Strait Islander people provide central guidance to the parties
NSW CAPO	<ul style="list-style-type: none"> • Advocate for the NSW Government to follow through on its commitments in the National Agreement • Undertake regular, ongoing and inclusive engagement with Aboriginal and Torres Strait Islander communities, people and organisations to ensure their perspectives guide NSW CAPO's participation and partnership in implementing the National Agreement • Strive to hold government agencies to account for following through on the commitments made in the National Agreement or NSW implementation plans. • Ensure internal governance arrangements continue to be participatory, transparent, accountable and representative
NSW Government	<ul style="list-style-type: none"> • Ensure that the Premier's Department is responsible for coordination of the implementation of the National Agreement on behalf of NSW Government • Ensure the oversight, engagement and commitment of NSW ministers and senior public servants to the National Agreement • Undertake reform actions to embed the Priority Reforms at all levels of NSW Government • Strengthen capability to engage transparently, appropriately and effectively with Aboriginal and Torres Strait Islander people and organisations on policies and programs that primarily impact on them • Maintain responsibility for providing appropriate funding and ensure that NSW CAPO is resourced to effectively and meaningfully participate in the partnership • Share access to location specific data and information to support Aboriginal and Torres Strait Islander communities and organisations • Ensure all NSW Government agencies are accountable for the adoption and implementation of the National Agreement • Fulfill all its commitments made in the National Agreement.

Source: NSW Closing the Gap Partnership Agreement.

While the NSW Partnership Agreement was signed in February 2024, work on the governance and implementation of the National Agreement had commenced in 2020.

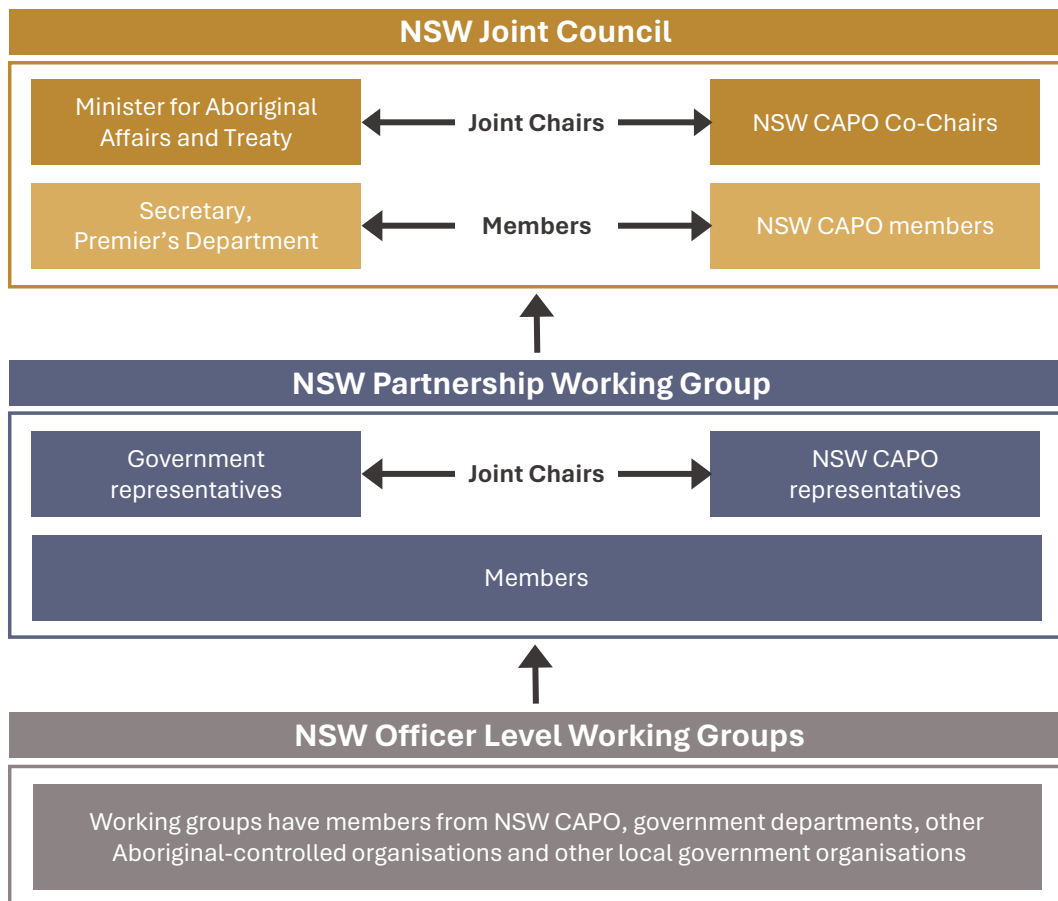
The National Agreement states that all governments will provide funding to Aboriginal partners to support their participation in partnerships and shared decision-making with governments. The NSW Government provided funding of approximately \$4 million to NSW CAPO in 2021–22 to support NSW CAPO's participation in governance bodies and its provision of expert advice. An additional \$9 million was allocated to support NSW CAPO's participation in governance activities for the ensuing two years. This included activities such as preparing for and attending meetings of decision-making and oversight bodies, working on planning processes such as the development of implementation plans, and conducting consultation with Aboriginal communities.

In the 2022–23 NSW Budget, the NSW Government allocated a total of \$222 million over four years to develop and deliver initiatives under the National Agreement. Most of these funds were allocated to initiatives led by NSW Government agencies, although many of these were delivered by ACCOs that received grant funding from NSW Government agencies. The Premier’s Department was allocated \$98 million, with \$33 million of this provided to the NSW Aboriginal Land Council (NSWALC) to fund partnership and priority reform initiatives. Other agencies that received a large proportion of the \$222 million funding included the Department of Communities and Justice (\$42 million) and NSW Health (\$30 million). Some of the initiatives being delivered under the National Agreement in NSW have been funded by agencies repurposing funds that had previously been allocated to other programs that focused on improving outcomes for Aboriginal people.

2.3. Governance structure for the implementation of the National Agreement in NSW

The governance structure used for the National Agreement in NSW until the end of 2024 is summarised in Exhibit 3.

Exhibit 3: Governance structure for the implementation of the National Agreement in NSW (to end 2024)



Source: NSW Closing the Gap Annual Report 2022–23.

The **NSW Joint Council** (Joint Council) is the key decision-making group overseeing the planning and implementation of the National Agreement in New South Wales. It is co-chaired by the Minister for Aboriginal Affairs and the Chair of NSW CAPO. The head of each organisation from NSW CAPO is represented on the Joint Council, along with the Secretary of the Premier's Department (formerly the Department of Premier and Cabinet). The Joint Council is supported by the Joint Secretariat, staffed by the Premier's Department (Aboriginal Affairs NSW group) and NSW CAPO.

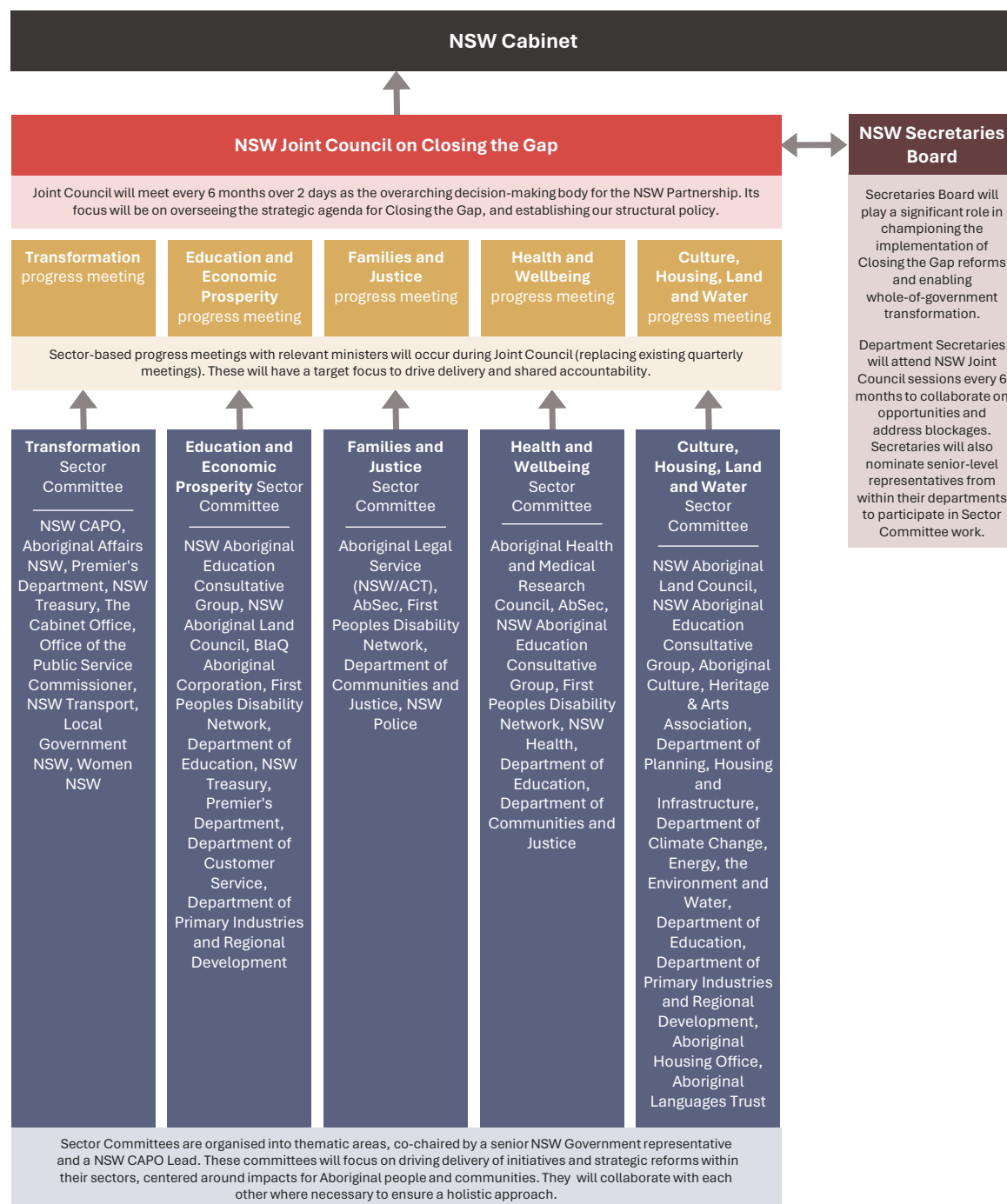
The **NSW Partnership Working Group** (which has now been abolished and replaced by Sector Committees – see below) monitors performance, endorses key deliverables and processes to develop the NSW Implementation Plan, and proposes initiatives to fulfil National Agreement requirements. Its members are senior executives from NSW Government agencies, NSW CAPO members, Local Government NSW and the NSW Coalition of Aboriginal Regional Alliances.

Officer Level Working Groups (OLWGs) (which have now been abolished) provided subject matter expertise to develop and progress action towards outcomes in the National Agreement. These 13 groups included representatives from government agencies, NSW CAPO and other relevant Aboriginal organisations.

In addition to these governance bodies, quarterly progress meetings are held with ministers and relevant members of NSW CAPO and NSW Government agencies. These meetings relate directly to the progress of the implementation of the National Agreement but are not included in the formal documentation of the governance structure.

Changes to the governance arrangements have been agreed between the NSW Government and NSW CAPO. These proposed changes are based on the findings and recommendations of an external review of the NSW Partnership undertaken in June 2022. The proposed commencement date was July 2024 but this was delayed due to disagreements about some details of the model, such as timing of workshops, composition of Committees and a dispute about partnership funding (discussed in Chapters 3 and 4). Initial meetings of some of the new bodies commenced in early 2025. The revised governance structure is shown in Exhibit 4.

Exhibit 4: Revised governance structure for the National Agreement in NSW (from January 2025)



Source: The Premier's Department.

Following the changes, the Joint Council will continue in the same form. However, meetings will be held every six months instead of quarterly and will be aligned with ministerial progress meetings. The NSW Secretaries Board will attend Joint Council meetings and support the implementation of initiatives in their portfolio areas.

The proposed role for the Secretaries Board is to 'champion' the implementation of the National Agreement and assist with whole-of-government adoption of the required reforms. This is intended to increase the involvement of senior executives from the NSW Government in the National Agreement including:

- attendance by secretaries at NSW Joint Council sessions every six months
- nomination of senior-level representatives from each department to participate in Sector Committee work.

The NSW Partnership Working Group will be replaced with five **Sector Committees** that:

- have a strategic focus on respective initiatives, embedding Priority Reforms and achieving progress against all socio-economic outcome initiatives
- are grouped around policy areas (Education and Economic Prosperity, Health and Well-being, Families and Justice, Culture, Housing Land and Water, and Transformation)
- are co-chaired by a NSW CAPO lead and a senior NSW Government representative (at the Deputy Secretary level).

Day to day delivery of projects and initiatives under the National Agreement will be undertaken by officer-level teams that report to a Sector Committee. The OLWGs were abolished in 2024.

2.4. About the audit

This audit assessed the effectiveness of the governance arrangements for the implementation of the National Agreement on Closing the Gap (the National Agreement) in New South Wales. The audit considered whether:

- the governance structure supports the operation of a genuine partnership between the NSW Government and NSW CAPO
- governance policies and processes support the implementation of the National Agreement.

The audit did not assess:

- the NSW Government's decision to sign the National Agreement
- the implementation of specific National Agreement initiatives
- the activities of Local Government NSW under the NSW Partnership Agreement
- the merits of NSW government policy.

NSW CAPO members included in this audit are the NSWALC, Aboriginal Health and Medical Research Council of NSW, AbSec – NSW Child, Family and Community Peak Aboriginal Corporation, BlaQ Aboriginal Corporation, Link-up NSW Aboriginal Corporation, First Peoples Disability Network Australia, NSW Aboriginal Education Consultative Group, and Aboriginal Legal Service NSW/ACT.

NSW CAPO added two organisations to its membership after the audit commenced, the Aboriginal Culture Heritage and Arts Association and the Aboriginal Community Housing Industry Association NSW. These organisations were not included in this audit.

The audit considered the design, implementation and conduct of the governance arrangements in place for the National Agreement in NSW. This includes assessment of the structures, processes and relationships that are used to guide decision-making and provide oversight and accountability. This is consistent with definitions of governance used by relevant public and private sector organisations in Australia. Three key areas of focus for this audit are: the governance arrangements for implementation of the National Agreement across NSW Government agencies, the partnership between the Premier's Department and NSW CAPO, and NSW CAPO's internal governance processes.

The audit did not assess, and does not comment on, the merits of the National Agreement itself or government policy. The audit did not assess the implementation of specific initiatives under the National Agreement, as these are subject to other reporting and accountability processes. The audit scope did not include the role of Local Government NSW or the governance arrangements for the National Agreement at the national level.

3. Design and implementation of governance arrangements

3.1. Accountability for the implementation of the National Agreement

The Premier's Department has not ensured that the National Agreement's Priority Reforms are being implemented across the NSW public sector

The Priority Reforms set out in the National Agreement on Closing the Gap (the National Agreement) – partnerships and shared decision-making, building the Aboriginal Community-Controlled sector, transforming government organisations, and shared access to data – are intended to apply across all government interactions with Aboriginal people and communities. The Priority Reforms are the key mechanism for achieving the overall objectives of the National Agreement and are intended to address some of the factors contributing to the failure of previous agreements, policies and programs.

Under the NSW Partnership Agreement, the NSW Government is responsible for 'leading system reform actions to embed the Priority Reforms at all levels'. This requires the Premier's Department, as the lead agency for the implementation of the National Agreement in NSW, to play an active role to ensure all NSW Government agencies are aware of and understand their responsibilities under the National Agreement. The NSW Partnership Agreement also requires the Premier's Department to ensure that all NSW Government agencies are accountable for the adoption and implementation of the National Agreement.

The Premier's Department has not communicated the purpose of the National Agreement or influenced whole of government activities effectively. A review of the NSW partnership conducted in 2022 found that the purpose of the National Agreement had not been clearly defined and communicated to government agencies and that more work was required to promote understanding of its purpose. The Premier's Department has produced minimal whole-of-government guidance on the National Agreement's Priority Reforms. It has not established structures that require agencies to report publicly on their actions under the National Agreement. Nor has it conducted any structured analysis to assess the level of awareness and understanding of the National Agreement among NSW Government agencies. Staff from both the Premier's Department and members of the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) have stated that they frequently encounter staff at NSW Government agencies who demonstrate minimal understanding of the National Agreement or their responsibilities under it.

The Premier's Department published a 'Change and Transformation Strategy' document in September 2023. The stated purpose of this document is to embed the Priority Reforms across all NSW Government agencies to deliver transformational change. This was the first guidance document of its type and was released more than three years after the NSW Government signed the National Agreement. This means the first two implementation plans (discussed in Section 3.3) were produced with relatively little reference to the Priority Reforms.

An addendum to the NSW Partnership Agreement on shared decision-making and approval processes was developed in early 2024 by the Joint Secretariat. It is intended to support project teams by outlining expectations for working in partnership with Aboriginal organisations and communities. It also gives detailed guidance about shared decision-making with the goal of achieving self-determination. The NSW Joint Council (Joint Council) released the addendum to around 500 NSW Government agencies and NSW CAPO stakeholders in August 2024.

The NSW Government and NSW CAPO do not agree about how to align existing NSW Government policies with the National Agreement

There are differing views between the NSW Government and NSW CAPO members about how NSW Government policies such as the NSW Government's Plan for Aboriginal Affairs, *OCHRE* (Opportunity, Choice, Healing, Responsibility, Empowerment) should be aligned with the National Agreement. *OCHRE*, which commenced in 2013, arose from the recommendations of the NSW Ministerial Taskforce on Aboriginal Affairs. It includes initiatives to enable decision-making and define services at a local and regional level, revitalise language and cultural knowledge in schools, and strengthen educational outcomes and delivery pathways for young Aboriginal people through school into the workforce.

The National Agreement states that parties commit to 'aligning relevant policies and programs to the Agreement'. It does not provide further guidance on determining which policies and programs are relevant or what 'alignment' of policies with the National Agreement involves. The NSW Partnership Agreement does not provide further guidance on this issue.

Staff from the Premier's Department advised that the governance structure and processes supporting the National Agreement are not intended to cover every NSW Government policy or program that relates to Aboriginal people in New South Wales. In their view, aligning relevant policies and programs with the National Agreement means considering the Priority Reforms when designing policies. It does not mean that all NSW Government policies and programs must be formally governed by the structures established for the National Agreement. Members of NSW CAPO expressed varying views on this matter, but all agreed that alignment with the Priority Reforms was essential for all policies that are relevant to life outcomes for Aboriginal people.

Some NSW CAPO members have stated that *OCHRE* should be governed by the structures established for implementing the National Agreement in NSW. It is an example of a policy that is relevant to the National Agreement, as its goals include supporting self-determination, building partnerships between the NSW Government and Aboriginal communities, and improving outcomes for Aboriginal people in areas including education, work, and language and culture. NSW CAPO has stated that *OCHRE* has failed and initiatives under the *OCHRE* plan do not align with the goals of the National Agreement because they are controlled by the NSW Government. The Premier's Department believes that the *OCHRE* plan does align with the National Agreement and that its existing structure and governance arrangements are appropriate. NSW CAPO has proposed that it should be directly involved in fundamentally reshaping and then overseeing *OCHRE* via the National Agreement governance arrangements.

In January 2025, the NSW Ombudsman tabled a special report on the current status and future directions of *OCHRE*. The report identified a 'disconnect' between *OCHRE* and the National Agreement and confusion about their respective roles and initiatives. The report recommended that the relationship between *OCHRE* and the National Agreement be clarified and their respective initiatives be aligned.

Similarly, some NSW CAPO members have argued that the NSW Government's approach to consulting on the design of a treaty process, which included the appointment of three Treaty Commissioners in 2024, should have been overseen by the governance structure for the National Agreement in NSW rather than being designed and overseen by the Premier's Department.

The disagreement on these matters has created ambiguity about the status of key NSW Government policies and programs that are relevant to the National Agreement. The disagreement between the two lead partners for the National Agreement in NSW (the Premier's Department and NSW CAPO) may also have exacerbated confusion among other NSW Government agencies about the scope and purpose of the National Agreement.

Some policy decisions relevant to Aboriginal people and communities have been made in a way that is inconsistent with the National Agreement

There have been several examples since the signing of the National Agreement of policy decisions made without engagement with Aboriginal organisations or communities. The National Agreement states that governments will 'engage fully and transparently when undertaking significant changes to policy and programs that primarily impact on Aboriginal and Torres Strait Islander people'. The NSW Government's June 2023 submission to the Australian Government Productivity Commission (Productivity Commission) Review reiterated this commitment.

The NSW Government changed bail laws in early 2024 in response to concerns about crime in regional areas of New South Wales. NSW CAPO was not involved in the development of options for reform. The Premier's Department had communicated information about the reforms to NSW CAPO shortly before the announcement and acknowledged that this decision was not made in genuine partnership with NSW CAPO.

In response to this issue, the Aboriginal Legal Service NSW/ACT coordinated an open letter to the NSW Premier, raising concerns about the processes followed. In this case, there was a clear gap between the expectations of NSW CAPO members and the actions of the NSW Government in relation to working in partnership on key policy issues.

This example indicates that clearer and more consistent communication to NSW Government agencies is required to ensure the requirements of the National Agreement are understood and considered in relevant situations. This audit does not question the merits of the specific policy decision made.

3.2. Oversight of progress and risks

Key governance bodies have not provided effective oversight of the delivery of National Agreement initiatives

The Joint Council is the key governance forum and decision-making group for the National Agreement (see Chapter 2 for details). The stated role of the Joint Council is to provide leadership, make decisions, provide oversight of implementation plans and give direction on funding priorities. The Joint Council's monitoring of the progress of the National Agreement has not been proactive, especially in relation to project progress and expenditure.

Project expenditure is not an item on the Joint Council's agenda. The 2022–24 Implementation Plan included projects with total funding of approximately \$222 million over four years, with the majority of this going to projects co-led by NSW Government agencies and NSW CAPO members. The Joint Council and Partnership Working Group received limited detail about expenditure on National Agreement initiatives. Analysis of meeting records across the 2022–24 period reveal minimal discussion about how allocated funding was being spent.

The Joint Council receives minimal data on project expenditure from the NSW Government agencies that are leading delivery of most initiatives and have received most of the funding. The quarterly reports from these agencies state the amount spent and how this is tracking against the allocation. The Joint Council does not receive detailed information about how the money has been spent, reasons for over- or underspends, risks, or plans to address issues. In late 2024, NSW Treasury assisted the Premier's Department by working with it to gather and collate expenditure information from all NSW Government agencies that had been allocated funding for the National Agreement in the 2022–23 NSW Budget. Prior to this, there was no consolidated information available on overall expenditure on the National Agreement in NSW.

Joint Council agendas did not include regular progress reports or risk management as standing items. Between February 2022 and May 2024, only around one quarter of Joint Council resolutions were decisions or requests for further action (26%), with most resolutions noting updates. The remainder of the Joint Council's recorded resolutions were endorsing or noting progress reports or initiative presentations.

Around one third of the agenda items for Joint Council meetings related to the discussion of the governance structure during the same period. While this would be expected in the initial establishment stages of a program, the issues around the governance structure are still discussed regularly at Joint Council meetings four years after the National Agreement was signed.

Discussions in the Joint Council rarely focused on proactive actions to address strategic and operational risks to the successful implementation of the National Agreement. A partnership risk register was discussed in February and May 2022 but this audit does not identify evidence of a risk register being used by any governance forum after that time. The Joint Council did not discuss risks as a standing agenda item in its meetings between February 2022 and May 2024. The only instance of financial risks being discussed related to inconsistent approaches and the time taken to negotiate funding agreements.

The Terms of Reference for the Joint Council require all members to attend at least 75% of meetings per calendar year. Between February 2022 and May 2024, only four of the eight NSW CAPO member organisations met this attendance requirement. None of the Joint Council, the Premier's Department or NSW CAPO took action to improve this attendance rate.

The Premier's Department's program management for the implementation of the National Agreement has been ineffective

The NSW Partnership Agreement states that the task of monitoring the delivery of all commitments under the National Agreement is a shared responsibility between the NSW Government and NSW CAPO. While this aligns with the principle of shared decision-making, there are several practical factors that mean the Premier's Department has a greater responsibility for the day-to-day program management than NSW CAPO. NSW CAPO members contribute to monitoring project delivery by participating in formal governance bodies, including the Joint Council. However, the Premier's Department has more staff than NSW CAPO and much better access to the networks and systems within government that are required to monitor a whole-of-government program. Most of the projects being delivered under the National Agreement are led by NSW Government agencies, so assigning primary responsibility for the day-to-day monitoring of this work to NSW CAPO would not be reasonable.

Formal program management structures and processes were not established when the program commenced. The required capability and processes are not likely to be in operation until late 2025. Program management gaps include an unstructured approach to risk management, inconsistent tracking and reporting of progress against key milestones, and limited document sharing protocols and systems with NSW CAPO members. These gaps have severely limited the ability of the governance bodies to provide proactive oversight of progress, left delivery risks unresolved and limited the transparency of decision-making.

Record keeping for meetings of the Joint Council, Partnership Working Group and Ministerial Progress Meetings is incomplete, with documents from earlier years of the partnership not provided for this audit. For example, the documentation for a project relating to improving community access to data was missing role descriptions and project meeting minutes. Lessons learned for this pilot were only documented in emails and have not been shared with current and future community data projects.

In 2024, the Premier's Department began addressing the weaknesses in its program management approach by:

- commissioning an external review that assessed capabilities and processes
- making changes to its team structure that aim to improve the oversight and coordination of National Agreement implementation
- training to improve staff program management skills.

These internal capability and structural changes are expected to become operational in mid to late 2025, five years after implementation of the National Agreement commenced.

NSW CAPO members state there is a lack of parity between NSW Government and NSW CAPO representatives in key governance forums

An external review of the governance arrangements in 2022 found that, in most cases, the NSW Government has had significantly more representatives than NSW CAPO because NSW Government agencies nominated many more staff for positions in the forums. This is not consistent with the commitment in the NSW Partnership Agreement to develop equitable partnerships. Several NSW CAPO members stated that they were given insufficient time to review information in advance of meetings, which further limited their ability to contribute effectively at meetings.

NSW CAPO members have raised concerns about unrealistic timelines for the development of key program documents such as implementation plans and other strategic documents. The development of the 2022–24 Implementation Plan commenced in June 2021, shortly after the Officer Level Working Groups (OLWG) had been established. The OLWGs were supposed to conduct the majority of work to develop the implementation plans, but this was challenging because:

- the groups had not had time to establish their structures and processes before starting work on implementation plans, with proposed initiatives due within three months for prioritisation
- initiatives had to be sufficiently developed within six months to enable business case development
- initiatives that were not prioritised still required development for incorporation into the Implementation Plan
- the timelines did not allow enough time for community engagement and consultation sessions to be completed.

Revisions to the governance structure have been agreed, but do not fully address problems identified

The NSW Government commissioned an external review of partnership governance arrangements conducted by an Aboriginal-led consulting firm in 2022. The review found that the governance arrangements did not support strategic oversight of the National Agreement, had an excessive focus on process and did not have consistent communication or reporting systems (Exhibit 5).

Exhibit 5: Summary of the *NSW Partnership Health Check* report, June 2022

Governance focused on procedure rather than outcomes

- Partners reported that the focus of governance was on planning and procedure rather than on outcomes, actions and progress. This limited oversight of partnership goals and the achievement of targets.
- The focus on procedure resulted in governance relying on traditional government processes. This did not support collaboration and shared decision-making.

Governance bodies too large and not operating effectively

- Some governance bodies, particularly the OLWGs, were seen as too large (some had more than 40 people) and too formal.
- Despite the size of some groups, the report highlighted an imbalance in representation with some governance bodies dominated by either NSW Government or NSW CAPO members. These imbalances affected the partnership's effectiveness.
- Governance bodies do not enable robust discussions that are outcomes focused. Communication between bodies is minimal.
- The health check reported a lack of commitment from some members. This was linked to insufficient attendance by senior government executives, which delayed decision-making and failed to demonstrate a commitment to drive action and change.

Inadequate mechanisms to support accountability and communications:

- Stakeholders reported that there were insufficient mechanisms for accountability, conflict management and feedback within the partnership.
- Unstructured communication protocols hampered effective engagement with the community.

Source: *NSW Partnership Agreement Health Check*, 2022.

The Premier's Department and NSW CAPO agreed to several revisions to the governance arrangements in May 2024. The revisions aimed to improve shared decision-making and collaboration and increase the focus on the Priority Reforms. The revisions propose that the Joint Council will meet every six months for two full days instead of quarterly, as under the previous model. This is aimed at enabling greater depth in discussions relating to strategic and partnership matters. The revised structure also formally incorporates:

- ministerial progress meetings, which have taken place since 2022 on a quarterly basis but were not documented in the formal governance structure
- the NSW Secretaries Board, which is intended to address concerns raised by NSW CAPO about the need for greater access to senior decision-makers to progress implementation to leverage key enabling bodies in driving reforms, consistent with a recommendation of the 2023–24 Productivity Commission Review of the National Agreement.

Implementation of the agreed revisions commenced in early 2025. These may streamline the governance structure and provide for better oversight of the progress of projects. However, they do not address all issues identified with the governance arrangements in the 2022 review or in this audit. For example, the agreed structure does not provide details on accountability for decisions and outcomes. Nor does it refer to the strong partnership elements of the National Agreement or provide a different approach to improve the working relationship between the Premier's Department and NSW CAPO.

The revised governance structure is based on a review conducted in 2022 and commenced in early 2025. Details yet to be finalised include:

- the specific role of the Secretaries Board, which is currently only defined as 'championing the implementation' of the National Agreement and addressing 'blockages'
- the specific role and composition of the new Sector Committees
- processes for identifying, mitigating and monitoring risks to delivery
- how program management processes will be improved to address known weaknesses.

NSW CAPO does not have documented processes to ensure probity

NSW CAPO members are directly involved in the design of projects that their member organisations, or in some cases they, will be funded to deliver. For example, NSW CAPO members are involved in decisions about proposing and prioritising projects for inclusion in NSW implementation plans for the National Agreement, as well as in preparing business cases and budget submissions.

Each NSW CAPO member is a peak body for Aboriginal Community-Controlled Organisations (ACCOs) that may receive funding under these projects. In some cases, such as projects related to the Priority Reforms in the National Agreement, NSW CAPO members themselves are receiving NSW Government funding to deliver projects that they proposed and prioritised. Each NSW CAPO member participates in the Joint Council, which means they are involved in the oversight and accountability processes for projects that they and their member organisations are delivering. Individual NSW CAPO organisations are subject to governance and reporting obligations for their work outside the National Agreement, including probity requirements. This audit did not assess the probity policies and procedures of individual NSW CAPO member organisations and does not comment on these.

There are some probity processes in place for the Joint Council. For example, members are required to declare conflicts of interest. However, our review of meeting minutes covering the period 2022 to 2024 did not identify any declarations of conflicts during this period, or any documentation of the management of actual or perceived conflicts.

Similarly, NSW CAPO advised that it includes conflicts of interest declarations as a standing item at its internal meetings. Our review of meeting agendas and minutes from 2022 to 2024 found most meeting agendas did not include an item on declarations of interests. The audit was not provided with any examples of conflicts of interest that were declared or any documentation of the management of declared conflicts of interest.

Reporting on NSW CAPO members' use of funding for governance partnership work is not fully transparent

Approximately \$9 million was allocated to support NSW CAPO's participation in the partnership governance arrangements in 2022–23 and 2023–24 (described in Chapter 2). This funding was a part of a broader funding agreement between the Premier's Department and NSW CAPO which covered several activities related to the Priority Reforms in the National Agreement. The \$9 million was intended to fund 22 full-time equivalent positions: two staff at each of the eight NSW CAPO member organisations and six staff in a central NSW CAPO Secretariat. This audit has been unable to confirm whether this funding was used to employ 22 staff in the way planned.

The NSW CAPO Secretariat provided annual financial reporting to the Premier's Department via a grants administration system, as required under the funding agreement. This reporting includes an acquittal of the amount of funding that was received and spent. The funding agreement did not require reporting on the number of staff employed using the funding. This means it did not show whether the \$9 million funding was used to employ 22 staff over two years, in the way that was planned. This audit requested information on the number of staff employed at NSW CAPO member organisations under the funding agreement but did not receive it from either the NSW CAPO Secretariat or the Premier's Department.

3.3. Implementation planning

Most initiatives from the first two implementation plans were not delivered

Each jurisdiction is required to prepare an implementation plan to support achievement of the objectives and outcomes specified in the National Agreement. The NSW implementation plans for the National Agreement for 2021–22 and 2022–24 each included a very large number of initiatives. There were 285 planned actions listed in the 2021–22 Implementation Plan and 142 initiatives listed in the 2022–24 Implementation Plan.

Implementation plans concluded with a high proportion of incomplete actions and initiatives that have yet to commence, with:

- 15.4% of actions in the 2021–22 Implementation Plan being completed
- 51% of all initiatives in the 2022–24 Implementation Plan on track
- 21% of all initiatives in the 2022–24 Implementation Plan yet to start or still in planning with only a month left to plan completion.

The 2022–24 Implementation Plan included a process to prioritise work by OLWGs into a final list of initiatives that would develop business cases seeking budget funding. However, the Joint Secretariat did not fully apply its own prioritisation process in developing the 2022–24 Implementation Plan. Although prioritisation workshops identified 28 initiatives to receive budget funding, this did not result in a smaller plan. There were 114 initiatives that were not prioritised remaining in the Implementation Plan and to be undertaken using existing resources.

The large number of initiatives increased the delivery, consultation and reporting burden on teams, especially NSW CAPO members. Tasks such as negotiation of funding agreements with government agencies, recruitment of staff, and initial analysis and research were required even for initiatives that are delayed or have yet to commence. Other administrative burdens included requirements for quarterly reports on each initiative, even those yet to commence.

There have been too many short-term implementation plans, which have diverted resources away from focusing on delivering projects and achieving outcomes

The NSW Government plans to complete five separate implementation plans over ten years, including four within the first six years (see Exhibit 6). The first three implementation plans had a 1 or 2-year duration that aligned with NSW Budget cycles. Each plan has required significant time from NSW CAPO members and NSW Government staff to develop. The frequency of implementation plans diverted effort from the delivery of initiatives. Partners highlighted that the use of 1-year ‘bridging plans’, such as the 2024–25 Implementation Plan, has shifted attention from the longer-term plan for 2025–28.

Exhibit 6: Summary of NSW Closing the Gap Strategic Planning Framework 2020–2031

Milestones	Stated focus	Stated outcome sought
Initial Work	Set up	Establishing the direction of the National Agreement in NSW
Implementation Plan 2021–22: An outline of existing work	Planning	Developing approaches
Implementation Plan 2022–24: \$222 million funding for new and existing initiatives	Delivery	Taking action
Implementation Plan 2024–25: Continue existing work and plan for the next phase	Delivery, evaluation and enhancement	Reviewing work to date
Implementation Plan 2025–28: An outline of existing work	Delivery	Reinforcing successful initiatives and implementing strategic reforms
Implementation Plan 2028–31: Embedding delivery in ‘business as usual’ work. Refining and adapting as necessary	Consolidation	Embedding lessons learned and best practice
Future Framework: Work underpinning national Aboriginal Affairs policy	Cement future direction	Plan and set up for future direction of the National Agreement

Source: Aboriginal Affairs NSW group, NSW Closing the Gap Strategic Planning Framework 2020–2031, November 2023.

For each implementation plan, choices about which initiatives to develop and prioritise have been rushed in order to meet NSW Budget timelines. NSW CAPO advised that its members required more time to be able to participate meaningfully and suggested different approaches to the way sessions were structured. The rushed timelines prevented NSW CAPO members from fully consulting with Aboriginal communities affected by the initiatives, with only about half of the planned consultation work conducted before submissions were due for the 2022–24 Implementation Plan. This means the initial implementation plans for the National Agreement in NSW were not produced in genuine partnership. It also led to the creation of a disconnected list of initiatives, rather than a coherent program of work aligned with the desired outcomes of the National Agreement.

Many of the problems with the development of previous implementation plans were evident in the process for developing the 2024–25 Implementation Plan. This single-year plan was intended to be a ‘bridging’ plan but still required significant time and resources. The Premier’s Department allowed a short amount of time for the development of the new implementation plan.

The planned development process for the 2025–28 Implementation Plan was intended to be similar to that used in 2022–24. However, the Premier’s Department has advised that development of the plan was stopped to focus on the preparation of budget submissions. This means that budget proposals for the coming years were made before implementation plans had been developed. The implementation planning process is intended to include input from Aboriginal communities and include time for NSW Government and NSW CAPO representatives to collectively determine overall priorities for funding.

Implementation plans have not provided strategic guidance for implementing the National Agreement in NSW

Implementation Plans have not described how initiatives achieve the systemic changes to government organisations required to respond to the needs of Aboriginal people. The Plans do not define how a transformed public sector will function, nor how the Priority Reforms will be embedded across its operations.

During implementation planning, the Premier’s Department and NSW CAPO did not sufficiently assess whether proposed initiatives would contribute directly to National Agreement outcomes. OLWGs were asked to use a ‘theory of change’ framework analysis to show how initiatives deliver outputs that contribute to relevant National Agreement outcomes or targets being achieved.

This framework was not used consistently to determine which initiatives were likely to impact targets with some initiatives not completing this analysis. There was no feedback provided by the Joint Secretariat on this analysis and no consideration given to whether initiatives needed to be reshaped to ensure alignment to targets and outcomes. The ability of an initiative to contribute to a target or outcome did not inform decision-making about whether initiatives would be prioritised or approved.

Working groups that were responsible for developing proposals for projects were also required to develop detailed Delivery Plans for their initiatives. However, these were developed in a disconnected and uncoordinated manner, with few attempts to identify interdependencies with other initiatives. These working groups were not given sufficient guidance or oversight about the design of the initiative, its ability to contribute to an outcome and its deliverability.

Of the 142 initiatives in the 2022–24 Implementation Plan, only 38% of the total initiatives had a tangible output (including grants or direct funding), while nearly half (49%) delivered reviews or frameworks without clarity on how this would contribute to an outcome.

There is no evidence of oversight or guidance by the Joint Council or the Joint Secretariat questioning working groups on the high proportion of initiatives that did not clearly relate to outcomes under the National Agreement. The reviews of Delivery Plans by the Secretariat rarely advised on how these foundational initiatives could be redesigned or integrated with other initiatives to ensure tangible actions or contribute to a National Agreement target or outcome.

4. Working in partnership

4.1. Partnership between the Premier's Department and NSW Coalition of Aboriginal Peak Organisations

The governance structure established for the National Agreement has provided new opportunities for NSW CAPO members to speak directly with Ministers and senior NSW Government officials

The governance structure for the implementation of the National Agreement on Closing the Gap (the National Agreement) aims to establish a genuine partnership and shared decision-making structures, in line with the requirements of the National Agreement. A formal NSW Partnership Agreement on Closing the Gap between the NSW Government, NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) and Local Government NSW was signed in February 2024, which fulfilled a commitment made in the National Agreement. The NSW Partnership Agreement includes a commitment to shared responsibility for key aspects of governance.

As discussed in Chapter 2, the formal governance structure includes the NSW Joint Council (Joint Council) that is co-chaired by the Minister for Aboriginal Affairs and senior representatives from NSW CAPO entities, the Joint Secretariat operated by the Premier's Department (staff from the Aboriginal Affairs NSW group) and NSW CAPO (staff from the NSW Aboriginal Land Council-NSWALC), and sub-groups with representatives from NSW Government agencies and NSW CAPO entities. These groups have met regularly to review and discuss the implementation of the National Agreement. The establishment and use of these groups has provided increased opportunities for representatives of NSW CAPO member organisations and the NSW Government to work directly together.

Regular Ministerial Progress Meetings have been held since 2022, which have been attended by Ministers and senior staff from NSW CAPO member organisations. These meetings provide an opportunity for NSW CAPO members to report progress, raise issues and discuss other programs or initiatives that impact the National Agreement.

Some new partnerships have been developed between NSW Government agencies and NSW CAPO members under the National Agreement

The partnership between NSW CAPO, The Cabinet Office and the Premier's Department (staff from Aboriginal Affairs NSW) working on data sovereignty initiatives under the National Agreement is another example of a genuine partnership. Exhibit 7 details how this partnership has used the strong partnership elements of the National Agreement.

This audit identified several smaller examples of the development of new partnerships between NSW Government agencies and NSW CAPO members through the National Agreement. In August 2024, the Secretary of the NSW Department of Communities and Justice (DCJ) wrote to the co-chairs of NSW CAPO inviting them to partner with DCJ to design a new Strategic Plan. The invitation was for participation in DCJ's strategic planning work, as opposed to involvement in specific policies or programs. While the details of this proposed approach had not been finalised at the time of writing, it is an example of a NSW Government agency actively seeking to partner with NSW CAPO in line with the principles set out in the National Agreement and NSW Partnership Agreement.

Exhibit 7: Access to data partnership between NSW CAPO, The Cabinet Office and the Premier's Department

Factors for successful partnerships: collaborative working to improve access to data at the local level

- NSW CAPO, The Cabinet Office and the Premier's Department (staff from Aboriginal Affairs NSW) partnered on data reforms that make it easier for Aboriginal people and community organisations to access data that is relevant to them and improve the capability of local communities to use the data to monitor improvements and drive their own development. This project contributes to the Priority Reform relating to data sovereignty.
- Project partners identified several factors that have contributed to the success of this project as a positive example of the NSW Government and NSW CAPO working in partnership, including:
 - the team that has worked on these initiatives has had experience in delivering large reforms, was empowered to make decisions, and was able to influence other parts of government.
 - time was allocated at the beginning of the project to define the problem thoroughly and to establish clarity about the partnership approach used for the project.
 - the project partners jointly established a charter that described the decision-making structures and standards expected for working as a team.
 - team practices included establishing regular meeting schedules (with a combination of in-person and online meetings) and a shared document management system to support collaborative working.
- The project has produced tangible results and is considered successful by both NSW CAPO and the NSW Government. Its main output to date is the pilot of a new 'data connectors' service that provides tailored assistance to Aboriginal community organisations seeking access to data that is held by the NSW Government. The project has established a data connector role in seven NSW Government agencies. An internal report assessing progress on the project reported that the new service had received 77 requests over an 18-month period, with the number of requests growing steadily during this time. Most of these requests came from Aboriginal Community-Controlled Organisations (ACCOs) and related to crime and justice data.

Source: NSW Government and NSW CAPO documents (unpublished).

The Premier's Department and NSW CAPO do not agree about what working in partnership involves

The Premier's Department, via the Aboriginal Affairs NSW group, and NSW CAPO share responsibility for the governance of the National Agreement in NSW. The NSW Partnership Agreement sets out principles for partnership work that include transparency, accountability, acknowledgement of the demands of shared decision-making, mutual respect and inclusion. These principles have not been followed in practice.

The NSW Partnership Agreement describes the agreed roles and responsibilities for the Premier's Department and NSW CAPO within the partnership. The roles assigned to NSW CAPO include advocating for action to implement the National Agreement and holding NSW Government agencies to account for following through on commitments made under the National Agreement. There is a tension between this advocacy role and the commitment to work in partnership with the NSW Government. This tension is not being managed effectively.

The Premier's Department has expressed the view that NSW CAPO has not always fully engaged with the NSW Government as a genuine partner. NSW CAPO has argued that its primary role is to advocate for Aboriginal people and the concept of partnership has been used by some in the NSW Government to pressure them to align with pre-existing positions formed by NSW Government agencies, rather than advocating for the priorities expressed by Aboriginal communities. NSW CAPO argues that agreeing to this approach would diminish its role as an independent advocate for Aboriginal people. The disagreement on this fundamental aspect of the governance of the National Agreement significantly contributes to the parties' inability to establish effective governance arrangements.

NSW CAPO has asked Ministers and senior public servants to move the leadership of the National Agreement from the Aboriginal Affairs NSW group to another part of the Premier's Department or to The Cabinet Office. NSW CAPO has argued that the Aboriginal Affairs NSW group lacks the authority to influence the work of other NSW Government agencies on the National Agreement. These requests from NSW CAPO have been made in forums including meetings with Ministers and correspondence to the Secretary of the Premier's Department. NSW CAPO's requests have not been agreed to by the Minister.

The Premier's Department and NSW CAPO have not established an effective Joint Secretariat, which has contributed to weaknesses in the operation of governance processes

A Joint Secretariat has been in place for several years, but, in practice, each organisation has established its own structures and operated separately. It did not have systems for communication or document management in place until late 2024. This approach makes it likely that work will be duplicated and increases the risk that each organisation will have different interpretations of actions and priorities from key meetings.

Our review of selected correspondence between the parties indicated that they have not established clear internal communication protocols to support the partnership and did not have effective processes in place for routine activities such as setting dates and agendas for governance forum meetings. There were multiple disagreements between the Premier's Department and NSW CAPO about the processes used to develop the 2024–25 Implementation Plan, despite this being the third implementation plan developed for the National Agreement.

The Premier's Department did not work in partnership with NSW CAPO when conducting a review of program management for the National Agreement in 2024 (described in Chapter 3). This resulted in the duplication of work, as NSW CAPO had separately begun developing a proposal for improving program management. While program management is primarily the Premier's Department's responsibility, NSW CAPO staff had a clear interest in the review. The Premier's Department advised that its review of its program management approach was likely to involve making changes to its staffing arrangements, so it could not share full details about this with NSW CAPO without disclosing sensitive information about its staff.

The perspectives and experiences of NSW CAPO could have provided additional insight and would have increased the likelihood of change being implemented effectively. This has also impacted the development of a common program management approach across the Premier's Department and NSW CAPO that could enable the Joint Secretariat to work in genuine partnership.

Some projects led by NSW CAPO have not been conducted in line with the partnership principles of the National Agreement

NSWALC led work on a proposed model for the establishment of an independent Aboriginal-led accountability mechanism in NSW. The project was not conducted in partnership with the NSW Government. NSW Government agencies were consulted during the project, but the project team did not include any staff from NSW Government agencies. The report and recommendations on a model for an accountability mechanism were developed by the NSWALC project team. There was consultation with NSW Government agencies on the report, but the report was tabled in the NSW Parliament without being agreed with the Premier's Department. NSWALC staff stated that they judged that NSW Government agencies including the Premier's Department had a conflict of interest and should not be involved as partners in the development of an accountability mechanism because they may be subject to review by it.

The NSWALC also led a project that is intended to develop a sustainable funding model for NSW CAPO's participation in the partnership with the NSW Government. Funding was allocated for this project in November 2022 and was due to be completed in mid-2024. NSWALC engaged an external consultant to conduct this work. The NSWALC's project team did not include any NSW Government staff. Decisions about the engagement of a consultant and the scope of the consultant's work were made without the involvement of the Premier's Department or staff from other NSW Government agencies. A report proposing a funding model for the remainder of the National Agreement was finalised in late 2024. The scope of work developed by the NSWALC project team did not require the consultant to conduct detailed quantitative analysis of the workload required to participate in

partnership governance work. As a result, the report's analysis was based largely on discussions with staff from NSW CAPO member organisations. At the time of writing, the approach for future funding arrangements has not been agreed with the NSW Government or implemented.

Disputes about the administration of partnership funding have detracted from the effective operation of governance arrangements

The funding mechanism being used in NSW to fund work on Priority Reforms in the National Agreement is a grant funding deed between the Premier's Department and NSWALC. The funding deed specified that the Aboriginal Affairs NSW group will manage the administration of the deed. The NSWALC receives the funds on behalf of NSW CAPO because NSW CAPO is not a legal entity. The deed provided funding for NSW CAPO's participation in governance processes for the National Agreement and for several projects associated with the Priority Reforms.

The funding deed makes NSW CAPO entities formally accountable to the Aboriginal Affairs NSW group within the Premier's Department. It specifies that the Aboriginal Affairs NSW group may monitor, review and evaluate the delivery of the projects funded under the deed. The National Agreement must be implemented in accordance with relevant financial management legislation in NSW, including the annual *Appropriations Acts* and the *Government Sector Finance Act 2018*. This means there is a requirement for funding given to NSW CAPO entities to be managed and acquitted in line with legislative requirements. However, it is not ideal to have the Aboriginal Affairs NSW group playing a financial oversight role for the organisations with which it is working in partnership.

NSW CAPO has raised concerns relating to the administration of partnership funding, including by writing to the Minister for Aboriginal Affairs and Treaty in mid-2024 and initiating dispute resolution processes. Our review of relevant documents indicates that the escalation was a result of ineffective communication between the parties. In October 2024, NSW CAPO advised Ministers that it would cease work on activities relating to the governance partnership for the National Agreement because it did not have certainty about funding for this work. This resulted in the cancellation of meetings of the Joint Council in November 2024 and Ministerial meetings that were planned to coincide with the Joint Council meeting. This decision does not apply to work by NSW CAPO members on other projects funded under the National Agreement. NSW CAPO re-commenced work on partnership governance arrangements in early 2025 after receiving confirmation of funding for this work.

4.2. Aboriginal involvement and representation in the governance of the National Agreement in NSW

NSW CAPO has conducted community consultations and used these to inform its approach to several key pieces of work

NSW CAPO conducted a series of structured community consultations to inform the first two National Agreement Implementation Plans and the development of business cases for specific initiatives that were submitted for funding. This included around 100 engagement sessions with community members over the first three years of the National Agreement, with a total of approximately 1,600 attendees. NSW CAPO has presented community consultation results in National Agreement governance forums and used it to inform its approach to specific National Agreement projects in New South Wales, such as its proposal for a new Aboriginal-led accountability mechanism and the access to data project (see Exhibit 7). The engagement and consultation work with Aboriginal communities has been guided by documented plans that have been adjusted over time in response to feedback from communities and NSW CAPO's internal assessments.

These consultations have been conducted despite several challenges that are outside NSW CAPO's control. COVID-19 restrictions were in place in 2021, when the initial consultations were taking place, which prevented in-person meetings. NSW CAPO has also stated that 'consultation fatigue' is an issue in Aboriginal communities, creating barriers to community attendance and participation in consultations. This was exacerbated by the result of the referendum on the Aboriginal and Torres Strait Islander Voice to Parliament.

Other jurisdictions have different arrangements for Aboriginal and Torres Strait Islander participation in the governance of the National Agreement

While most other jurisdictions also have peak bodies and ACCOs) involved in partnership arrangements with state and territory governments, in several jurisdictions Aboriginal community organisations are represented via different structures. For example, both Victoria and the Australian Capital Territory have elected bodies working in partnership with their respective governments on the implementation of the National Agreement. Western Australia, South Australia and the Northern Territory include specific place-based community organisations in the peak partner body. Exhibit 8 summarises jurisdictional arrangements. This audit has not assessed the effectiveness of the arrangements in these jurisdictions.

Exhibit 8: Jurisdictional arrangements for Aboriginal and Torres Strait Islander representation in partnership governance arrangements for the National Agreement

Jurisdiction	Representatives
National	Coalition of Aboriginal Peak Organisations (CAPO) 80 Community-Controlled peak and member organisations representing around 800 organisations The 12 CAPO members of the National Joint Council are elected.
New South Wales	NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) Ten Community-Controlled organisations
Victoria	Ngaweeyan Maar-oo 23 members (14 ACCO representatives and nine individual delegates) Ngaweeyan Maar-oo is the Koorie caucus of the Victorian Closing the Gap Partnership Forum 14 representatives of ACCO sectors are elected Nine delegates are nominated by the Aboriginal Caucuses of the Victorian Aboriginal Governance Forum
Queensland	QLD Aboriginal and Torres Strait Islander Coalition (QATSIC) Four member organisations
South Australia	South Australian Aboriginal Community-Controlled Organisation Network (SAACON) 26 members, including ACCOs, place-based and community organisations
Western Australia	Aboriginal Advisory Council Western Australia (AACWA) 11 members including ACCOs, place-based and community organisations The Council is established under legislation
Tasmania	No formal partner: state-wide consultations used to develop implementation plans
Australian Capital Territory	ACT Aboriginal and Torres Strait Islander Elected Body Seven elected members
Northern Territory	Aboriginal Peak Organisations Northern Territory (APO NT) Eight ACCOs and place-based organisations

Source: Aboriginal and Torres Strait Island Partner organisation websites and parliamentary submissions.

NSW CAPO is a coalition of Aboriginal Community-Controlled Peak Organisations. NSW CAPO states that, in addition to their core business, its members collectively and individually advocate for the interests of Aboriginal people in NSW. Many of the organisations that NSW CAPO members represent are service provider organisations, which have local connections across NSW. Several NSW CAPO members have regional offices but some of the smaller member organisations do not have a strong profile in all parts of the State. NSW CAPO's community consultations have indicated that there is poor awareness and knowledge of NSW CAPO and the National Agreement in some communities. There are other Aboriginal organisations in New South Wales that have connections across the State that are not directly involved in the implementation of the National Agreement.

Organisations associated with initiatives in the NSW Government's Plan for Aboriginal Affairs, *OCHRE* (Opportunity, Choice, Healing, Responsibility, Empowerment) have not had significant involvement in the implementation of the National Agreement. The *OCHRE* plan includes the Local Decision Making (LDM) initiative, which involves the creation of Aboriginal Regional Alliances (ARAs) that represent a local community in negotiations about service delivery with the NSW Government. The ARAs are represented at a state level by the NSW Coalition of Aboriginal Regional Alliances (NCARA). The LDM initiative continues to operate but its status in relation to the National Agreement remains unclear. The work done in previous years to establish partnership arrangements between the NSW Government and ARAs, which could contribute to the delivery of multiple initiatives, is not being incorporated into the National Agreement.

NCARA had one representative on the NSW Partnership Working Group from 2021 until this was disbanded in 2024. NSW CAPO met with NCARA in February 2024 to discuss NCARA's proposal to be represented on the Joint Council. NSW CAPO does not support this as its view is that the Joint Council should only include representatives of the signatories to the National Agreement. NSW CAPO has also stated that it does not consider NCARA to be independent of the NSW Government because it was established via the *OCHRE* plan and because ARAs receive secretariat support from the NSW Government. NCARA is not a member of NSW CAPO because NCARA does not meet all elements of the definition of an ACCO provided in the National Agreement.

Section 2 –

Appendices

Appendix 1 – Response from entities

Joint response from the Premier's Department and the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO)



Ref: A7907226
23 May 2025

Mr Bola Oyetunji
Auditor General for NSW
Audit Office of NSW

Re: Performance Audit on the Governance of the National Agreement on Closing the Gap in NSW

Dear Mr Oyetunji,

We refer to your correspondence of 11 April 2025 and thank you for providing the final NSW Auditor-General's Report on the Governance of the National Agreement on Closing the Gap in NSW ('the Report'). The Premier's Department ('the Department') and the NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) remain committed to delivering, in partnership, the National Agreement on Closing the Gap in NSW:

- **Recommendation 1:** the Premier's Department will continue to work with NSW Government agencies on embedding Closing the Gap across sectors. The Department will seek to ensure that responsibility for the administration of operational funding for NSW CAPO's partnership governance work is assigned internally to the group best equipped for this task. In relation to pre-existing NSW Government policies and programs that relate to outcomes for Aboriginal people to the National Agreement, including the OCHRE plan and treaty consultations, the Department will further explore this recommendation.
- **Recommendation 2:** the Department and NSW CAPO are committed to the partnership principles of the National Agreement and the NSW Partnership Agreement. We will further explore the best methods to achieve shared decision-making. Regarding the implementation of a sustainable funding model, we will work to further develop this noting any decision for funding would be subject to budget decisions.
- **Recommendation 3:** the Department and NSW CAPO are committed to improving accountability, planning and oversight of the implementation of the National Agreement in NSW. Work is underway to ensure NSW Implementation Plans focus on, and clearly align with the Priority Reforms, and to implement structured monitoring of the progress of projects, budget management and delivery risks under the National Agreement.
- **Recommendation 4:** NSW CAPO will implement internal governance processes that document the management of potential probity issues arising from Coalition member's participation in the delivery of the National Agreement in NSW, and provide increased transparency of the Coalition's decision-making process, expenditure and delivery of outcomes under the National Agreement.

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NSW CAPO and the Premier's Department are committed to working together in partnership to ensure ongoing improvement in Closing the Gap in NSW.

Sincerely,



Simon Draper
Secretary



Councillor Charles Lynch
Coalition of Aboriginal Peak Organisations co-chair



John Leha
Coalition of Aboriginal Peak Organisations co-chair

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Ancillary response from the NSW Coalition of Aboriginal Peak Organisations



NSW CAPO Response to the Audit – to be tabled in Parliament with the Audit Report.

"....The NSW Coalition of Aboriginal Peak Organisations (**NSW CAPO**) welcomes the findings and recommendations of the Audit Office *Performance Audit on the Governance of the National Agreement on Closing the Gap in NSW*.

As noted in our joint response with the NSW Premier's Department, NSW CAPO remains firmly committed to delivering the National Closing the Gap Agreement in partnership with the NSW Government.

Befitting the unique nature of such a partnership, NSW CAPO provides the following independent response to the audit, ancillary to the joint response provided with the Premier's Department.

Closing the Gap provides an opportunity to transform the outcomes for our people and our communities. To do so, the governance and delivery of Closing the Gap needs to be a genuinely transformational partnership.

This audit provides an opportunity to reset, refresh and reinvigorate our partnership with the NSW Government, so that it is truly transformational in terms of how government works with us to deliver for our people.

We can report that we have already taken steps to implement all of the recommendations related to internal governance processes. Implementation of the external reporting recommendation will take a little longer to coordinate with a review of other reporting mechanisms being undertaken with our partners in Department of Premiers.

We also have a process to propose to our government partners, for the alignment of all Aboriginal policy and programs to Closing the Gap and the oversight and accountability mechanisms to be established in response to this audit.

As noted, while we generally welcome the audit's findings, we do take issue with the framing of the finding about NSW CAPO's reporting. We again restate that we met all reporting obligations of funding arrangements. That those obligations did not include a requirement to report on FTE employed, is a shortcoming of the reporting framework of the grantor, not a lack of transparency on the part of NSW CAPO. To reiterate previous advice to this audit, funding received for staffing was and could only be utilised for staffing consistent with the grant agreement. That funding and the staff it provided during the audited period, is only a modest fraction of the full costs in terms of NSW CAPO staffing, time and resources associated with engaging, supporting and delivering the Closing the Gap Partnership.

NSW CAPO is a member of the national Coalition of Aboriginal and Torres Strait Islander Peak Organisations and is made up of member organisations.



The NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) acknowledge and pay respect to the Traditional Owners of the lands on which we work, and the lands we travel through. We also acknowledge our Elders – past, present and emerging.

Finally, while we walk this journey together with the NSW Government, it must not be lost that this is not, nor will it ever really be, a partnership of equals, in terms of resources, capacity, and structural power. It is our capability to deliver for our communities, that is the strength we bring to the partnership.

This partnership can, must, and will, do better to deliver for our people and communities, and to close the gaps.

Appendix 2 – Priority Reforms and socio-economic outcomes in the National Agreement

The four Priority Reforms are:

- formal partnerships and shared decision-making
- building the Aboriginal Community-Controlled sector
- transforming government organisations
- shared access to data and information at a regional level.

The NSW Government and NSW Coalition of Aboriginal Peak Organisations (NSW CAPO) agreed to add a fifth Priority Reform specific to NSW:

- driving employment, business growth and economic prosperity.

The 17 socio-economic outcome areas (SEOs) are:

- SEO 1: Aboriginal people enjoy long and healthy lives
- SEO 2: Aboriginal children are born healthy and strong
- SEO 3: Children are engaged in high-quality, culturally appropriate early childhood education in their early years
- SEO 4: Aboriginal children thrive in their early years
- SEO 5: Aboriginal students achieve their full learning potential
- SEO 6: Aboriginal students reach their full potential through further education pathways
- SEO 7: Aboriginal youth are engaged in employment or education
- SEO 8: Strong economic participation and development of Aboriginal people and communities
- SEO 9: Aboriginal people secure appropriate, affordable housing that is aligned with their priorities and need
- SEO 10: Aboriginal adults are not over-represented in the justice system
- SEO 11: Aboriginal young people are not over-represented in the justice system
- SEO 12: Aboriginal children are not over-represented in the child protection system
- SEO 13: Aboriginal families and households are safe
- SEO 14: Aboriginal people enjoy high levels of social and emotional wellbeing
- SEO 15: Aboriginal people maintain a distinctive cultural, spiritual, physical and economic relationship with their land and waters
- SEO 16: Aboriginal cultures and languages are strong, supported and flourishing
- SEO 17: Aboriginal people have access to information and services enabling participation in informed decision-making regarding their own lives.

Note: SEO 9 and 15 have two targets each, meaning there are 19 socio-economic targets.

Appendix 3 – About the audit

Audit objective and criteria

This audit assessed the effectiveness of the governance arrangements for the implementation of the National Agreement on Closing the Gap (the National Agreement) in NSW.

We addressed the audit objective through the following criteria.

- The governance structure supports the operation of a genuine partnership between the NSW Government and NSW Coalition of Aboriginal Peak Organisations (NSW CAPO).
 - Roles and responsibilities are defined clearly for all parties to the National Agreement.
 - The governance structure ensures a focus on the implementation of the Priority Reforms.
 - Resourcing supports effective partnership work.
 - The governance structure ensures Aboriginal perspectives and expertise inform the implementation of the National Agreement.
 - Data is disclosed to support shared decision-making.
- Governance policies and processes support the implementation of the National Agreement.
 - There are clear and coordinated implementation plans.
 - There is effective oversight of the progress of implementation.
 - There is transparent reporting on progress, risks and achievement of commitments and effective escalation processes.
 - There are policies and procedures for managing probity.
 - There is an evaluation program for the National Agreement that includes continuous improvement.

Audit scope and focus

This audit focused on the governance of the National Agreement. The audited entities were:

- the Premier's Department
- NSW Aboriginal Land Council
- Aboriginal Health and Medical Research Council of NSW
- AbSec – NSW Child, Family and Community Peak Aboriginal Corporation
- BlaQ Aboriginal Corporation
- Link-up NSW Aboriginal Corporation
- First Peoples Disability Network Australia
- NSW Aboriginal Education Consultative Group
- Aboriginal Legal Service NSW/ACT.

For this audit, governance is defined as the structures, processes and relationships that guide decision-making and provide oversight and accountability. This is in line with definitions of governance used by public and private sector organisations in Australia, including the Australian Public Service Commission and the Governance Institute of Australia.

The audit did not assess:

- the merits of NSW government policy
- the implementation of specific initiatives under the National Agreement
- the activities of Local Government NSW under the NSW Partnership Agreement.

Audit approach

Our procedures included:

- interviews with:
 - senior staff from audited entities
 - stakeholders and subject matter experts from other organisations.
- examining documents such as:
 - key planning documents
 - briefings to ministers and senior staff
 - records of meetings including minutes and associated papers.

The audit approach was complemented by quality assurance processes within the Audit Office to ensure compliance with professional standards.

Audit methodology

Our performance audit methodology is designed to satisfy Australian Auditing Standard ASAE 3500 Performance Engagements and other professional standards. The standards require the audit team to comply with relevant ethical requirements and plan and perform the audit to obtain reasonable assurance and draw a conclusion on the audit objective. Our processes have also been designed to comply with requirements specified in the *Government Sector Audit Act 1983* and the *Local Government Act 1993*.

Acknowledgements

We gratefully acknowledge the cooperation of, and assistance provided by, staff from the Premier's Department, NSW CAPO Secretariat and NSW CAPO member organisations.

Audit cost

The estimated cost of the audit, including staff costs and overheads, is \$580,000.

Appendix 4 – Performance auditing

What are performance audits?

Performance audits assess whether the activities of state or local government entities are being carried out effectively, economically, efficiently and in compliance with relevant laws.

The activities examined by a performance audit may include a government program, all or part of an audited entity, or more than one entity. A performance audit can also consider particular issues that affect the whole public sector and/or the whole local government sector. They cannot question the merits of government policy objectives.

The Auditor-General's mandate to undertake audits is set out in the *Government Sector Audit Act 1983* for state government entities, and in the *Local Government Act 1993* for local government entities. This mandate includes audit of non-government sector entities where these entities have received money or other resources (whether directly or indirectly) from, or on behalf of, a government entity for a particular purpose (follow-the-dollar).

Why do we conduct performance audits?

Performance audits provide independent assurance to the NSW Parliament and the public.

Through their recommendations, performance audits seek to improve the value for money the community receives from government services.

Performance audits are selected at the discretion of the Auditor-General who seeks input from parliamentarians, state and local government entities, other interested stakeholders and Audit Office research.

How are performance audits selected?

When selecting and scoping topics, we aim to choose topics that reflect the interests of Parliament in holding the government to account. Performance audits are selected at the discretion of the Auditor-General based on our own research, suggestions from the public, and in consultation with parliamentarians, agency heads and key government stakeholders. Our three-year performance audit program is published on the website and is reviewed annually to ensure it continues to address significant issues of interest to Parliament, aligns with government priorities and reflects contemporary thinking on public sector management. Our program is sufficiently flexible to allow us to respond readily to any emerging issues.

What happens during the phases of a performance audit?

Performance audits have three key phases: planning, fieldwork and report writing.

During the planning phase, the audit team develops an understanding of the audit topic and responsible entities and defines the objective and scope of the audit.

The planning phase also identifies the audit criteria. These are standards of performance against which the audited entity, program or activities are assessed. Criteria may be based on relevant legislation, internal policies and procedures, industry standards, best practice, government targets, benchmarks or published guidelines.

During the fieldwork phase, audit teams will require access to books, records or any documentation deemed necessary in the conduct of the audit, including confidential information that is either Cabinet information within the meaning of the *Government Information (Public Access) Act 2009* or information that could be subject to a claim of privilege by the State or a public official in a court of law. Confidential information will not be disclosed, unless authorised by the Auditor-General.

At the completion of fieldwork, the audit team meets with management representatives to discuss all significant matters arising from the audit. Following this, a draft performance audit report is prepared.

The audit team then meets with management representatives to check that facts presented in the draft report are accurate and to seek input into developing practical recommendations on areas of improvement.

A final report is then provided to the accountable authority of the audited entity(ies), which will be invited to formally respond to the report. If the audit includes a follow-the-dollar component, the final report will also be provided to the governing body of the relevant entity. The report presented to the NSW Parliament includes any response from the accountable authority of the audited entity. The relevant Minister and the Treasurer are also provided with a copy of the final report for state government entities. For local government entities, the Secretary of the Department of Planning and Environment, the Minister for Local Government and other responsible Ministers will also be provided with a copy of the report. In performance audits that involve multiple entities, there may be responses from more than one audited entity or from a nominated coordinating entity.

Who checks to see if recommendations have been implemented?

After the report is presented to the NSW Parliament, it is usual for the entity's Audit and Risk Committee / Audit Risk and Improvement Committee to monitor progress with the implementation of recommendations.

In addition, it is the practice of NSW Parliament's Public Accounts Committee to conduct reviews or hold inquiries into matters raised in performance audit reports. The reviews and inquiries are usually held 12 months after the report received by the NSW Parliament. These reports are available on the NSW Parliament website.

Who audits the auditors?

Our performance audits are subject to internal and external quality reviews against relevant Australian standards.

The Public Accounts Committee appoints an independent reviewer to report on compliance with auditing practices and standards every four years. The reviewer's report is presented to the NSW Parliament and available on its website.

Periodic peer reviews by other Audit Offices test our activities against relevant standards and better practice.

Each audit is subject to internal review prior to its release.

Who pays for performance audits?

No fee is charged to entities for performance audits. Our performance audit services are funded by the NSW Parliament.

Further information and copies of reports

For further information, including copies of performance audit reports and a list of audits currently in-progress, please see our website www.audit.nsw.gov.au or contact us on 9275 7100.

Appendix 5 – Report snapshot

About this report

This audit assessed the effectiveness of the governance arrangements for the implementation of the 2020 National Agreement on Closing the Gap (the National Agreement) in NSW.

The stated objective of the National Agreement is to overcome entrenched inequality faced by Aboriginal and Torres Strait Islander people. It is an agreement between all Australian governments.

The implementation of the National Agreement in NSW is led by the Premier's Department and the NSW Coalition of Aboriginal Peaks (NSW CAPO). NSW CAPO is a group of Aboriginal Community-Controlled Organisations that advocate for the rights and wellbeing of Aboriginal people in NSW.

Findings

The governance arrangements are not operating effectively.

Formal shared governance bodies have been established, but the governance structure does not provide clear accountability for the delivery of National Agreement initiatives or drive the behaviours needed to achieve the National Agreement's stated outcomes.

The Premier's Department and NSW CAPO agreed to work together to implement the National Agreement, but they have not formed a genuine partnership.

Recommendations

The report made four recommendations that aim to:

1. increase the accountability of NSW Government agencies for implementing the Priority Reforms of the National Agreement
2. ensure the Premier's Department and NSW CAPO are working in genuine partnership
3. improve the planning and oversight of the implementation of the National Agreement in NSW
4. improve the transparency of NSW CAPO's work conducted under the National Agreement.

Fast facts

2020

the year the current National Agreement was signed

\$222m

funding allocated by the NSW Government for the first four years of the National Agreement

7 of 19

socio-economic targets in the National Agreement that were on track in June 2022 (the most recent NSW Closing the Gap Annual Report)

Tabled in NSW Parliament 29 May 2025

OUR VISION

Our insights inform and challenge government to improve outcomes for citizens.

OUR PURPOSE

To help Parliament hold government accountable for its use of public resources.

OUR VALUES

Pride in purpose
Curious and open-minded
Valuing people
Contagious integrity
Courage (even when it's uncomfortable)

ABOUT THE COVER IMAGE - THE JOURNEY TOGETHER BY LANI BALZAN

“The Journey Together” is a story of unity, respect, and strength. At its centre, handprints represent different voices, knowledge systems, and strengths coming together through shared decision-making. Circular meeting places show genuine partnerships where Elders, families, and communities guide solutions alongside government. Family symbols within the circles reflect thriving, culturally grounded homes where children grow proud and strong. A shield, nestled among the elements, stands for protection, resilience, and the power of speaking truth to systemic challenges. A growing plant symbolises hope, healing, and the flourishing that happens when partnerships are led by trust, respect, and Country. Flowing lines weave through the artwork, representing the deep connections of culture, kinship, and shared responsibility. They remind us that true and lasting change happens together — not alone — and that strong relationships, cultural grounding, and community leadership are the foundations for a better future.



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