

ACT AUDITOR-GENERAL'S
PERFORMANCE AUDIT REPORT
**IMPLEMENTATION OF THE ACT ABORIGINAL AND
TORRES STRAIT ISLANDER AGREEMENT**
REPORT NO. 6 / 2023

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ISSN 2204-700X (Print)

ISSN 2204-7018 (Online)

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PA 20/02

The Speaker
ACT Legislative Assembly
Civic Square, London Circuit
CANBERRA ACT 2601

Dear Madam Speaker

I am pleased to forward to you a Performance Audit Report titled 'Implementation of the ACT Aboriginal and Torres Strait Islander Agreement' for tabling in the Legislative Assembly pursuant to Subsection 17(5) of the *Auditor-General Act 1996*.

The audit has been conducted in accordance with the requirements of the *Auditor-General Act 1996* and relevant professional standards including *ASAE 3500 – Performance Engagements*.

Yours sincerely



Michael Harris
Auditor-General
10 August 2023

The ACT Audit Office acknowledges the Ngunnawal people as traditional custodians of the ACT and recognises any other people or families with connection to the lands of the ACT and region. The Office acknowledges and respects their continuing culture and the contribution they make to the life of this city and this region.

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SUMMARY

On 26 February 2019, the *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028* (the 2019 Agreement) was signed. The 2019 Agreement was signed by the chair of the Aboriginal and Torres Strait Islander Elected Body, the Chief Minister, the Minister of Aboriginal and Torres Strait Islander Affairs and the Head of Service. It followed the earlier *ACT Aboriginal and Torres Strait Islander Agreement 2015-2018* (the 2015 Agreement).

The 2019 Agreement seeks to hold the ACT Government accountable to ACT Aboriginal and Torres Strait Islander communities through the Aboriginal and Torres Strait Islander Elected Body. The Agreement sets the long-term direction for Aboriginal and Torres Strait Islander affairs in the ACT and obliges the signatories to work together to enable equitable outcomes for Aboriginal and Torres Strait Islander people.

This performance audit examines the effectiveness of ACT Government directorates' implementation of the 2019 Agreement. It considers the governance arrangements and monitoring and reporting activities associated with the implementation of the 2019 Agreement across directorates.

Conclusions

GOVERNANCE ARRANGEMENTS

Governance arrangements to oversight the implementation of the ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 (the 2019 Agreement) have not been effective.

Twenty-four of 99 priority actions in the ten Phase One focus area action plans have not been adequately addressed by directorates in their implementation plans. This increases the risk of actions not being implemented in a joined-up way across ACT Government agencies, or that parts of the Agreement are not implemented at all. Furthermore, an Outcomes Framework, which was to be developed to demonstrate the impact of the 2019 Agreement on Aboriginal and Torres Strait Islander communities, has taken over two years to implement. Whole-of-government governance committees (the Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board and the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee) have not provided effective oversight of the implementation of the 2019 Agreement.

Most directorates had processes to oversight the implementation of their specific commitments under the 2019 Agreement. Effective processes to oversight implementation included the use of directorate registers to track implementation, and regular meetings with members of the Aboriginal and Torres Strait Islander Elected Body. In a number of instances, however, actions reported by directorates were not relevant to, and did not support, the related commitment in the 2019 Agreement.

SUPPORT FOR SELF-DETERMINATION

Directorates are not yet able to demonstrate their ability to support self-determination for Aboriginal and Torres Strait Islander communities. While most directorates were able to show how they consulted with, and took account of the views of, local Aboriginal and Torres Strait Islander communities, their activities were on a small-scale and had only recently commenced. While this shows some positive signs, the results of these efforts are not presently understood or observed broadly across local Aboriginal and Torres Strait Islander communities. Significant and sustained effort by ACT Government directorates, working closely with communities and their leaders, will be necessary to change this.

A key support for self-determination is the Aboriginal and Torres Strait Islander Elected Body, through its accountability, oversight and consultation roles. A key risk to the effectiveness of the Elected Body is that it comprises seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to:

- working with directorates and local Aboriginal and Torres Strait Islander communities; and
- undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.

PERFORMANCE MANAGEMENT AND MONITORING

Performance management and monitoring arrangements for the implementation of the 2019 Agreement have not been effective.

While performance reporting has been conducted over the life of the 2019 Agreement, it has not provided a structured and faithful representation of progress in implementing the 2019 Agreement. Outputs-based reporting has not been conducted routinely and has not consistently and faithfully represented directorate progress implementing the 2019 Agreement. Outcomes-based reporting has not included a line of sight to activities undertaken under the 2019 Agreement.

Reporting does not enable Aboriginal and Torres Strait Islander communities to hold the government to account for the implementation of the 2019 Agreement as it is not materially complete or faithfully presented. As the differences between the directorate implementation plans and the focus area action plans have not been disclosed publicly, communities cannot know of all commitments included in the 2019 Agreement. This, taken together with the lack of structure and neutrality to external reporting, prevents stakeholders from understanding the status of the implementation of the 2019 Agreement.

Key findings

GOVERNANCE ARRANGEMENTS

Paragraph

Cross-directorate oversight committees

Two cross-directorate governance committees were established to oversight the implementation of the 2019 Agreement; the Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board; and the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee. Neither committee has had sufficiently stable and consistent attendance by members since the commencement of the 2019 Agreement and neither committee has met according to the timeframes set down by their terms of reference. Action items have been consistently noted in the meeting minutes of both committees, but the completion of actions has not been consistently reported or tracked to their ultimate completion. The Strategic Board sub-committee has not effectively fulfilled its responsibility under its terms of reference to oversight risk management of the 2019 Agreement. These issues limit the effectiveness of these committees to maintain oversight and accountability for directorates to implement their obligations under the 2019 Agreement.

2.26

At the commencement of the 2019 Agreement, the development of an Outcomes Framework was identified as a means by which to oversight agency performance. It took over two years to implement. While some consideration was necessary to ensure alignment with the National Agreement for Closing the Gap, which was agreed in November 2020, the Aboriginal and Torres Strait Islander Elected Body expressed frustration at the lack of transparency and progress in developing the Outcomes Framework at its public hearings in March 2020. Progress in the development of the Outcomes Framework accelerated in late 2020 and updated directorate implementation plans were agreed with the Elected Body in the first half of 2021.

2.32

Directorate oversight arrangements

Each directorate has an implementation plan that documents its commitments under the 2019 Agreement. Most directorates were able to demonstrate processes for the monitoring of progress in relation to the commitments in the implementation plan that involved: a register that was used by staff to provide regular updates on progress to senior directorate leadership; and regular meetings or briefings between senior directorate leadership and members of the Aboriginal and Torres Strait Islander Elected Body. Despite these arrangements, a review of directorates' commitment registers found missing commitments and reported actions that did not sufficiently relate to the commitment on the directorate's implementation plan.

2.55

Assignment of responsibilities to implement the 2019 Agreement

There are two sets of governing documents that track directorates' accountability for the implementation of Phase One of the 2019 Agreement: 2.74

- focus area action plans: publicly available documents available alongside the 2019 Agreement that list priority actions across ten different areas that have been prioritised for improving outcomes for Aboriginal and Torres Strait Islander communities. These documents were agreed as part of the 2019 Agreement; and
- directorate implementation plans: internal documents that identify specific actions for each directorate to implement the 2019 Agreement. These are agreed directly between each directorate and a representative of the Elected Body. These implementation plans are not publicly available.

There are gaps in directorate accountabilities to implement priority actions under the 2019 Agreement. Not all priority actions from the focus area action plans have been appropriately addressed in directorate implementation plans; the Audit Office considers that 24 priority actions outlined in Phase One focus area action plans were not appropriately recognised in directorate implementation plans. Eleven of these 24 were whole-of-government actions that no directorate recognised in their implementation plan. The remaining 13 of 24 priority actions that were unassigned were the responsibility of at least one directorate. Some directorates were more effective than others in recognising their individual responsibilities in their implementation plans. 2.75

Directorates have since implemented clearer accountabilities for implementing each focus area action plan as part of Phase Two of the 2019 Agreement. If these accountabilities are effectively acquitted, this is expected to assist with better quality implementation and reporting of priority actions under the 2019 Agreement. 2.76

SUPPORT FOR SELF-DETERMINATION

Paragraph

Self-determination

A review of directorates' consultation approach with Aboriginal and Torres Strait Islander communities for the implementation of priority actions from the 2019 Agreement shows: 3.59

- there is a need for including service users more broadly in consultation activities to support self-determination across all directorates;
- many of the directorates' consultation activities were focussed in size and scope and had been commenced within the term of the 2019 Agreement. The Audit Office heard from community organisations that small consultation groups tended to promote cultural safety and that the diversity of community members and their views will mean there is no single community view. There is, however, a risk that only those members consulted will be aware of these activities in the absence of

effective communication about the effects of this work. The relatively recent status of these consultation activities also means it will take some time to evidence meaningful results and broader cultural change (which will also require significant ongoing effort and resourcing); and

- directorates prioritise consulting with members of the Elected Body. This is appropriate to the extent that the Elected Body is the representative body that executed the 2019 Agreement. Members of the Elected Body were also able to identify more instances where ACT Government agencies had taken into account the views of the community than community organisations. However, this does not substitute the need for broad, regular and targeted consultation with Aboriginal and Torres Strait Islander service users. The impact of the COVID pandemic on government operations and the local Aboriginal and Torres Strait Islander community is noted as a limiting factor on this activity during 2020 and 2021.

Most directorates have been able to demonstrate consultation activity that has taken into account the views of local Aboriginal and Torres Strait Islander communities and ultimately demonstrate support for self-determination. However, much of this consultation activity has been on a small scale and undertaken on a comparatively recent basis, since the current term of the 2019 Agreement. The consultation activity may indicate improving practices across directorates, but views heard from local community organisations suggests there still needs to be significant and continuing effort to demonstrate cultural change across directorates with respect to consultation and support for self-determination. 3.63

The Elected Body

The Aboriginal and Torres Strait Islander Elected Body is the elected Aboriginal and Torres Strait Islander representative body in the ACT. It has significant and diverse responsibilities by virtue of section 8 of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. There are risks that may limit the effectiveness of the Elected Body to support local Aboriginal and Torres Strait Islander communities and the right to self-determination. A key risk is that the Elected Body membership consists of seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to: 3.70

- working with directorates and local Aboriginal and Torres Strait Islander communities; and
- undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.

Other risks in the Elected Body's ability to support Aboriginal and Torres Strait Islander communities include that there is low voting participation from the eligible population and there is a high proportion of current or former government employees serving on the Elected Body. Improved diversity and participation in elections for the Elected Body could better support self-determination. 3.71

PERFORMANCE MANAGEMENT AND MONITORING

Paragraph

Whole-of-government performance reporting

The Inter-Directorate committee is responsible for producing six-monthly progress reports of directorate performance on the implementation of the 2019 Agreement. In the four years since the 2019 Agreement commenced, the committee has produced two reports: one in November 2019 and another in September 2020. No other progress reports have been produced. The reports were structured to demonstrate how each directorate had progressed in implementing its commitments and were predominantly output-focused, with little structured analysis of directorate performance in achieving intended outcomes. It was difficult to determine directorate progress between the two reports as the reports changed from reporting against directorate implementation plans to a mix of directorate implementation plans, Outcomes Framework measures and focus area action plan priority actions. Nevertheless, the reports did outline progress against the priority actions at a point in time under the 2019 Agreement. No progress reports have been produced since September 2020 and no alternative reports have been produced that monitor the completion of the priority actions under the 2019 Agreement.

4.14

The *Annual Report on the Aboriginal and Torres Strait Islander Agreement 2019-2028* was tabled in the Legislative Assembly in April 2020. There was a lack of structure to the report and it was not possible to accurately determine which parts of the 2019 Agreement had (or had not) been progressed. The report predominantly consisted of unstructured reporting of highlights, which does not provide a faithful representation of progress that has (or has not) been made. There was also insufficient information provided in the report on the progress in developing and implementing the Outcomes Framework, which was intended to be used to promote accountability for implementation. Performance measures included in focus area action plans for Phase One of the 2019 Agreement, which were reported in the annual report, lacked specific targets or methods to assess performance. The annual report did not provide a clear assessment of directorate performance in implementing the 2019 Agreement.

4.25

The Outcomes Framework was finalised in April 2021. It describes how performance on the implementation of the 2019 Agreement will be tracked and sets out: the outcomes of both the 2019 Agreement and National Agreement; performance measures relevant to their achievement; and the baseline data against which to measure performance. The Outcomes Framework performance measures were generally improved from those shown in the annual report on directorates' progress that was tabled in the Legislative Assembly on 2 April 2020.

4.33

The impact statement is a publicly reported statement of performance that is prepared in line with the Outcomes Framework. The impact statement is updated as new information is available, but information has not been provided to date for four of ten 2019 Agreement focus area action plans. While the Outcomes Framework and impact statement give an effective picture of achievement of outcomes for communities, they do not effectively demonstrate the impact of the implementation of priority actions under the 2019 Agreement. Annually reported performance

4.34

measures do continue to lack specific targets, however, with measures conveying only an increase or decrease in a stated metric. There is no direct line of sight between the implementation of each of the 2019 Agreement's priority actions and the measures in the impact statement.

Directorate performance reporting

Directorates' reporting of their activities to implement the 2019 Agreement, as shown in their 2020-21 annual reports, did not provide a faithful representation of their activities. Report users cannot effectively understand progress against the 2019 Agreement's focus area action plans and annual report commentary from directorates is not comprehensive. While some directorates gave commentary on activity, this was often through unstructured reporting of highlights and it did not consistently consider progress against incomplete priority actions. It is not possible for users to understand the impact of directorate activity to implement the 2019 Agreement.

4.45

Recommendations

RECOMMENDATION 1 GOVERNANCE COMMITTEES

The Community Services Directorate, through its responsibility as chair of the governance committees that oversight the implementation of the 2019 Agreement (the Strategic Board sub-committee and the Inter-Directorate committee) should:

- a) update the Inter-Directorate committee's terms of reference to recognise the Aboriginal and Torres Strait Islander Elected Body's co-chair responsibility for the committee;
- b) ensure action items raised in governance committee meetings are tracked to their conclusion in meeting minutes; and
- c) establish a process for the Aboriginal and Torres Strait Islander Elected Body to assess the effectiveness of the governance committees and report this to the ACT Public Service Strategic Board and ACT Government as signatories to the 2019 Agreement.

RECOMMENDATION 2 OVERSIGHT OF DIRECTORATE PROGRESS AGAINST THE 2019 AGREEMENT

The ACT Health Directorate, Community Services Directorate and Environment, Planning and Sustainable Development Directorate should:

- a) review the authority and operation of their senior governance committees to ensure they have a clear responsibility to oversight and lead the implementation of their obligations under the 2019 Agreement; and
- b) implement more robust processes for tracking progress in implementing commitments under the 2019 Agreement. This could involve using a commitments register that facilitates the

regular review of progress with senior executives and governance committees and regular meetings with Aboriginal and Torres Strait Islander Elected Body representatives.

RECOMMENDATION 3 ACCOUNTABILITY AND TRANSPARENCY FOR DIRECTORATE IMPLEMENTATION PLANS

The ACT Public Service Strategic Board should:

- a) publish all directorate implementation plans on the 2019 Agreement website; and
- b) implement a process to provide assurance to the signatories to the 2019 Agreement that the directorate implementation plans have allocated all responsibilities under the Phase Two focus area action plans.

RECOMMENDATION 4 THE ELECTED BODY

The Community Services Directorate and Chief Minister, Treasury and Economic Development Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Subcommittee of the Strategic Board and in consultation with the Aboriginal and Torres Strait Islander Elected Body, strengthen the Elected Body's ability to fulfil its responsibilities under the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. Consideration should be given to:

- a) resourcing the Elected Body to be able to fulfil its accountability, consultation and oversight roles. The Elected Body should receive support to independently determine the necessary resourcing that is needed to complete these roles and have them considered as part of the ACT Government budget process; and
- b) supporting improved community participation in elections for the Elected Body.

RECOMMENDATION 5 IMPACT STATEMENT TARGETS

The Community Services Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee:

- a) finalise outstanding performance measures for the Outcomes Framework; and
- b) develop targets for all performance measures identified in the Outcomes Framework.

RECOMMENDATION 6 WHOLE-OF-GOVERNMENT REPORTING

The Community Services Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee, work with directorates to establish a whole-of-government, publicly reported annual performance statement on progress to implement the 2019 Agreement.

RECOMMENDATION 7 ANNUAL REPORT DIRECTIONS

The Chief Minister, Treasury and Economic Development Directorate should review and update the annual report directions to explicitly require ACT Government directorates and agencies to report their progress in implementing the 2019 Agreement faithfully and without bias.

RECOMMENDATION 8 ANNUAL REPORTING TEMPLATE

In conjunction with Recommendation 7, the Office of Aboriginal and Torres Strait Islander Affairs should develop an annual reporting template for directorates to complete and include in their annual report. The template should require:

- a) reporting on the status of all priority actions identified in the directorate's action plan;
- b) the activities completed to progress each priority action; and
- c) the planned activities to progress incomplete priority actions.

Agencies' responses

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, all ACT Government directorates were provided with the draft proposed report for comment. All comments were considered and required changes were reflected in the final proposed report.

In accordance with subsection 18(2) of the *Auditor-General Act 1996*, all ACT Government directorates were provided with the final proposed report for comment. All comments were considered and required changes were reflected in the final report.

In accordance with subsection 18(3) of the *Auditor-General Act 1996*, other entities considered to have a direct interest in the report were also provided the draft proposed and final proposed reports or extracts thereof for comment. All comments were considered and required changes made.

The following comments were provided for inclusion in this Summary chapter.

ACT Government agencies

The ACT Government would like to thank the Audit Office for working closely with all directorates to provide a comprehensive analysis of the implementation of the Agreement.

There has been considerable reflection across directorates on both the strengths and potential shortcomings of implementation of the Agreement to date.

Directorates have welcomed the contribution the current Audit has made to this process and wish to offer the following general comments collectively.

The introduction of the current Agreement in 2019 marked a significant change in how the ACT Government, the ACT Public Service and Aboriginal and Torres Strait Islander Elected Body (Elected Body) work together. The focus of the Agreement is to enable self-determination and improve outcomes for Aboriginal and Torres Strait Islander people within the ACT.

In implementing the ten-year Agreement, directorates, the Elected Body and community have needed to adapt, evolve and innovate to determine how the Agreement's commitments will be

upheld. This includes delivering against the National Agreement on Closing the Gap which was agreed in 2020.

The Audit Report accurately notes a range of areas in which implementation of the Agreement could have been improved, particularly through more coordinated and consistent governance across directorates. These challenges have also been apparent to directorates as they have worked to deliver the initial phase of the Agreement in recent years.

We are pleased the Audit Report acknowledges the work of directorates to diagnose these issues and take steps to address them through new governance arrangements developed for Phase 2 of the Agreement.

In particular, directorates note there have been significant challenges in coordinated tracking and reporting on work that has occurred under the Agreement. Directorates also acknowledge the impact this has on the ability of the Elected Body and broader community to see and engage with the significant work that has been occurring.

As noted in the Audit Report, this has also resulted in some confusion as to which directorate/s are responsible for specific Phase 1 actions. While this observation is shared by directorates, we consider this issue may be overstated in the report. For example, directorates are not of the view that all priority actions were intended to be reflected in all Directorate Implementation Plans (discussed at paragraphs 2.57 to 2.65). We also note that while the actions in Table 2-2 may not have been reflected in any Directorate's Implementation Plan, work has nevertheless progressed against most of the listed actions.

The ACT Government would also like to highlight the significant impact of the COVID-19 public health emergency throughout 2020-22. This created a number of unique challenges for the ACT Government, the Elected Body, and the broader Aboriginal and Torres Strait Islander community. These challenges impacted the ability to deliver against some elements of the Agreement.

The emergency response to COVID-19 required specific prioritisation of work, which in some cases meant slowing or pausing work related to some areas under the Agreement, among many other important projects.

However, consistent with the intent and principles of the Agreement, significant uplift was achieved during this time in a range of services in response to the immediate needs of Aboriginal and Torres Strait Islander Communities in the ACT and Region, including in areas aligned to the Significant Focus Area of Health and Wellbeing.

During this time, directorates' efforts necessarily prioritised other activities to support the Aboriginal and Torres Strait Islander community, examples of which include:

- Supporting Gugan Gulwan Youth Aboriginal Corporation with \$200,000 to enhance capacity to deliver their youth support services and integrated services for families;*

- *Supporting Winnunga with \$100,000 to deliver a range of holistic wellbeing supports for individuals and families and almost \$250,000 provided to support its COVID-19 health response;*
- *Supporting Relationships Australia Dhunlung Yarra with \$100,000 to enhance its capacity to provide counselling and conflict resolution services;*
- *Supporting the Canberra Rape Crisis Centre Nguru Program with \$75,000 to increase the provision of holistic, culturally appropriate counselling for people who have experienced sexual assault and their families;*
- *Supporting Tjillari Justice Aboriginal Corporation and Yeddung Mura Aboriginal Corporation each with \$20,000 to continue their important work supporting individuals and families, including those who are or have been engaged with the justice system; and*
- *A total of \$65,000 being made available for grass roots organisations to support activities that helped with connection to culture and mental health. This included support for funerals and Sorry Business during the COVID-19 pandemic. Work to identify the most appropriate organisations to receive or distribute these funds was undertaken in collaboration with Aboriginal and Torres Strait Islander Communities.*

Finally, the ACT Government acknowledges there have been a range of factors, including COVID-19, that have impacted the Elected Body in its previous and current term. This has in turn had an impact on the ability to progress certain aspects of the Agreement, given the fundamental principles of working in partnership and supporting self-determination.

The ACT Government will continue to review arrangements and consider how the Elected Body can be better supported to fulfil its role in the Agreement.

1 INTRODUCTION

Self-determination for First Peoples

1.1 The *Aboriginal and Torres Strait Islander Agreement 2019-2028* (the 2019 Agreement) is a recognition that Australia's First Peoples have a right to self-determination to meet their social, cultural and economic needs. The right to self-determination for Aboriginal and Torres Strait Islander people is supported by legislation and international agreements, principally:

- Article 1 of the International Covenant on Civil and Political Rights;
- Section 27 of the *Human Rights Act 2004*; and
- *Aboriginal and Torres Strait Islander Elected Body Act 2008*.

International Covenant on Civil and Political Rights

1.2 Article 1 of the International Covenant on Civil and Political Rights reads as follows:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

1.3 Australia became a signatory to the Covenant in 1972 and ratified the Covenant in 1980.

Human Rights Act 2004

1.4 When first enacted, section 27 of the *Human Rights Act 2004* recognised the rights of *minorities* as follows:

Rights of minorities

Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.

1.5 In 2016, this section was amended by the *Human Rights Amendment Act 2016* to recognise the rights of *Aboriginal and Torres Strait Islander peoples and other minorities*:

Cultural and other rights of Aboriginal and Torres Strait Islander peoples and other minorities

(1) Anyone who belongs to an ethnic, religious or linguistic minority must not be denied the right, with other members of the minority, to enjoy his or her culture, to declare and practise his or her religion, or to use his or her language.

(2) Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right—

(a) to maintain, control, protect and develop their—

(i) cultural heritage and distinctive spiritual practices, observances, beliefs and teachings; and

(ii) languages and knowledge; and

(iii) kinship ties; and

(b) to have their material and economic relationships with the land and waters and other resources with which they have a connection under traditional laws and customs recognised and valued.

Aboriginal and Torres Strait Islander Elected Body

1.6 In 2008, the Aboriginal and Torres Strait Islander Elected Body (the Elected Body) was established by the passing of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. The purpose of the Elected Body was set out in the initial legislation as follows:

The objects of this Act are, in recognition of the disadvantaged position of Aboriginal people and Torres Strait Islanders living in the ACT—

(a) to ensure maximum opportunity for the voice of Aboriginal people and Torres Strait Islanders living in the ACT to reach decision-makers in the government and its agencies; and

(b) to ensure maximum participation of Aboriginal people and Torres Strait Islanders living in the ACT in developing and implementing government policies affecting them; and

(c) to ensure coordination by government agencies in developing policies affecting Aboriginal people and Torres Strait Islanders living in the ACT without detracting from, or diminishing, the responsibilities of those agencies to provide services for the broader community; and

(d) to further the economic, social and cultural development of Aboriginal people and Torres Strait Islanders living in the ACT; and

(e) to provide for advice to be given on appropriate representation of Aboriginal people and Torres Strait Islanders living in the ACT on consultative bodies established by government agencies.

1.7 The opening statement was updated by the *Aboriginal and Torres Strait Islander Elected Body Amendment Act 2017* to read:

The objects of this Act are, in recognition of the rights of Aboriginal and Torres Strait Islander peoples to freely determine their political status and to freely pursue their economic, social and cultural development in line with the right to self-determination-

1.8 The purpose of this amendment was to shift the objects of the Act from a deficit language to a strengths-based approach, which is consistent with the language in the United Nations Declaration on the Rights of Indigenous Peoples and the shared vision from the ACT

Aboriginal and Torres Strait Islander Agreement.¹ This was consistent with the passage of the *Human Rights Amendment Act 2016* and the International Covenant on Civil and Political Rights.

Aboriginal and Torres Strait Islander Agreements

ACT Aboriginal and Torres Strait Islander Agreement 2015-2018

1.9 In April 2015, the *ACT Aboriginal and Torres Strait Islander Agreement 2015-2018* (the 2015 Agreement) was signed. The 2015 Agreement:

... sets out clearly agreed principles, focus areas and actions for our work over the next three years. It also renews the ACT government's commitment to reconciliation: to key principles around the rights of Aboriginal and Torres Strait Islander people; to acknowledge the importance of cultural identity and cultural rights; and to work in practical ways to foster strong families, cultural identity, self-determination and further progress on key social and economic indicators.²

1.10 The 2015 Agreement included the right to self-determination within its statement of commitment as follows:

Supporting the rights of Aboriginal and Torres Strait Islander peoples to freely determine their political status and to freely pursue their economic, social and cultural development in line with the right to self-determination.

Aboriginal and Torres Strait Islander Agreement 2019-2028

1.11 ACT Government agencies and the Elected Body started work on a revised agreement in late 2017. Consultation with the Elected Body, community groups and representatives took place throughout 2018, and the final agreement was signed in February 2019. The 2019 Agreement was signed by the chair of the Elected Body, the Chief Minister, the Minister of Aboriginal and Torres Strait Islander Affairs and the Head of Service.

1.12 The 2019 Agreement re-iterates the commitment to self-determination as follows:

The Agreement recognises Aboriginal and Torres Strait Islander peoples as Australia's First People. First People have the right to self-determination which is an ongoing process of choice to ensure that Aboriginal and Torres Strait Islander communities are able to meet their social, cultural and economic needs.

1.13 The 2019 Agreement includes ten focus area action plans, the actions in which ACT Government agencies are accountable for implementing:

- Children and Young People
- Community Leadership

¹ Explanatory Statement, *Aboriginal and Torres Strait Islander Elected Body Amendment Bill 2017* (ACT), Clause 4.

² Legislative Assembly for the ACT, *Debates*, 2015 Week 04 Hansard (Thursday, 26 March 2015).

- Cultural Integrity
- Inclusive Community
- Housing
- Justice
- Health and Wellbeing
- Connecting the Community
- Economic Participation
- Life Long Learning

1.14 These focus area action plans are framed by desired outcomes and targets to achieve those outcomes. Priority actions are set out to progress these targets.

National Agreement on Closing the Gap

1.15 In July 2020, the *National Agreement on Closing the Gap* was executed by first ministers of all Australian governments, the Lead Convener of the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) and the President of the Australia Local Government Association (ALGA).

1.16 The 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.

1.17 The National Agreement commits the signatories to mobilising all avenues and opportunities available to them to meet the objective of this Agreement. The National Agreement includes four priority reform areas.

- Formal Partnerships and Shared Decision-Making
- Building the Community-Controlled Sector
- Transforming Government Organisations
- Shared Access to Data and Information at a Regional Level

1.18 To progress these priority reforms jurisdictional implementation plans have been established. The ACT jurisdictional implementation plan aligns the priority reform areas to four of the focus area action plans under the 2019 Agreement.

1.19 The 2019 Agreement is intended by ACT Government agencies to be the principal mechanism by which outcomes for the National Agreement are realised.

Implementation of the 2019 Agreement

1.20 Implementation of the 2019 Agreement across the ACT Public Service is overseen by:

- the Aboriginal and Torres Strait Islander Affairs Committee of the ACT Public Service Strategic Board; and
- the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee.

Aboriginal and Torres Strait Islander Affairs Committee of the ACT Public Service Strategic Board

1.21 The Aboriginal and Torres Strait Islander Affairs Committee of the ACT Public Service Strategic Board is responsible for:

... [providing] strategic leadership and oversight across the ACT Public Service in driving policy, program, and service delivery reform to enable self-determination for Aboriginal and Torres Strait Islander communities in the ACT.

...

As a collective, the Committee is responsible for:

- Driving the ACT Government's contribution to the Closing the Gap Partnership with a focus on achieving the Priority Reform Areas in the National Agreement and to the ACT Agreement.
- Leading strategic responses and purposeful collaboration to realise emerging opportunities and risks with potential to impact Aboriginal and Torres Strait Islander communities.
- Providing leadership to, and collaborating with, other Strategic Board committees and working groups on Aboriginal and Torres Strait Islander priorities and ACT Agreement commitments to inform Cabinet decision making.

1.22 The Strategic Board sub-committee presently comprises:

- Director-General Education;
- Director-General Justice and Community Safety;
- Director-General Transport Canberra City Services;
- Director-General Environment, Planning and Sustainable Development;
- Deputy Director-General Chief Minister, Treasury and Economic Development;
- Director-General ACT Health;
- Chief Executive Officer Canberra Health Services;
- Chief Projects Officer Major Projects Canberra;
- Chief Police Officer ACT Policing;
- Co-Chair of Inter-Directorate Committee, Deputy Director-General, Community Services Directorate; and
- Executive Branch Manager, Office for Aboriginal and Torres Strait Islander Affairs.

- 1.23 The Aboriginal and Torres Strait Islander Elected Body co-chair the Strategic Board sub-committee.

Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee

- 1.24 The terms of reference of the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee sets out the responsibility of the Inter-Directorate committee as follows:

The IDC is responsible for:

- Implementing and monitoring of the Aboriginal and Torres Strait Islander Agreement 2019-2028 including the development of the reporting framework;
- Providing six-monthly progress reports to the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee on the progress made against the Aboriginal and Torres Strait Islander Agreement 2019-2028;
- Assisting the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee with other matters that require Cross-Directorate input and advice; and
- Seeking Aboriginal and Torres Strait Islander policy advice on systemic and whole of government issues for the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee.

- 1.25 The membership of the Inter-Directorate committee is reflected in the committee's terms of reference, which states:

[The] IDC is chaired by the Executive Group Manager, Strategy Policy, Community Services Directorate.

All directorates must be represented on the IDC and hold the position of Deputy Director General or Executive Group Manager. Directorate representatives are at the discretion of the Director General. Directorates may have more than one representative given the diversity of their portfolio.

- 1.26 The Aboriginal and Torres Strait Islander Elected Body also co-chair the Inter-Directorate committee.

Directorate implementation plans

- 1.27 Directorate implementation plans are expected to set out how individual directorates intend to implement the 2019 Agreement through a series of actions. Directorate action plans were developed by each directorate in consultation with their Elected Body representative. They are not publicly available. Directorate implementation plans were previously known as directorate action plans, but have been renamed since July 2022 as part of phase two of the agreement.

- 1.28 Focus area action plans, which are publicly available, were informed by the directorate implementation plans during the development of the 2019 Agreement.

Office of Aboriginal and Torres Strait Islander Affairs

- 1.29 The Office of Aboriginal and Torres Strait Islander Affairs provides leadership to ACT Government agencies on the 2019 Agreement and the National Agreement and provides

advice to the Minister for Aboriginal and Torres Strait Islander Affairs on issues affecting Aboriginal and Torres Strait Islander people living in the ACT. It also provides secretariat and administrative support to the:

- Strategic Board sub-committee;
- Inter-Directorate committee;
- Aboriginal and Torres Strait Islander Elected Body; and
- United Ngunnawal Elders Council.

1.30 The Office of Aboriginal and Torres Strait Islander Affairs also has a role in community engagement through grants and community events. Grants administered include Reconciliation Day grants, cultural and leadership grants and scholarships.

Audit objective and scope

Audit objective

1.31 The objective of the audit was to assess the effectiveness of ACT Government agencies' implementation of the *Aboriginal and Torres Strait Islander Agreement 2019-2028*.

Audit scope

1.32 The audit examined the implementation of the 2019 Agreement. This included consideration of:

- the Office of Aboriginal and Torres Strait Islander Affairs' governance, oversight and support for implementing the agreement; and
- ACT Government agencies' oversight, monitoring and reporting to implement their commitments under the agreement.

1.33 Examination of the implementation of the 2019 Agreement included consideration of:

- whether OATSIA has effective governance and administrative arrangements in place for the implementation of the 2019 Agreement. This includes planning, monitoring and review processes for the implementation of the agreement and the focus area action plans; and
- whether the implementation of the agreement has considered the *Human Rights Act 2004*, particularly with respect to subsection 27(2), Aboriginal and Torres Strait Islander Cultural Rights and the obligations of public authorities.

1.34 The audit considered how ACT Government agencies implement the 2019 Agreement by examining whether:

- roles and responsibilities are clearly assigned for commitments in the agreement;

- the agreement is used by agencies to support business and risk plans; and
 - appropriate oversight and governance structures are in place to lead and direct implementation efforts.
- 1.35 An important part of determining whether the 2019 Agreement is effectively implemented is the agreement's Outcomes Framework. This framework includes an annual impact statement to publicly report the impact of programs and activities under agreement. Consideration of the Outcomes Framework and associated agency reporting (as part of the governance and administrative arrangements in place for the implementation of the agreement) was performed to determine if relevant, reliable and complete performance information is reported on the work to implement the agreement.
- 1.36 The audit recognised, and paid attention to, the cultural context within which the 2019 Agreement and its actions plans are implemented.
- 1.37 The functioning of OATSIA was examined as it relates to the implementation of the 2019 Agreement and its associated action plans and reporting. This includes secretariat support to the Aboriginal and Torres Strait Islander Elected Body, the Strategic Board sub-committee and the Inter-Directorate Committee responsible for the implementation of the agreement.
- 1.38 The audit did not examine:
- the Aboriginal and Torres Strait Islander Elected Body and its functions; or
 - functions of the Office for Aboriginal and Torres Strait Islander Affairs not related to the implementation of the 2019 Agreement.

Audit criteria, approach and method

Audit criteria

- 1.39 To form a conclusion against the objective, the following criteria were used:
- OATSIA has established effective governance arrangements to support the implementation of the *Aboriginal and Torres Strait Islander Agreement 2019-2028*. The Office has:
 - established an effective whole-of-government governance framework with roles, responsibilities and priorities for the implementation of the agreement;
 - established effective whole-of-government monitoring, reporting and review processes for the agreement; and
 - effectively engaged with stakeholders throughout the implementation of the agreement and taken their views into account.
 - ACT Government agencies have established effective practices and processes to support their implementation of the Agreement. ACT Government agencies have:

- established effective oversight arrangements for the implementation of the focus area action plans and related commitments they are responsible for;
- established an effective performance framework to monitor, report and review their implementation activities; and
- effectively engaged with stakeholders throughout their implementation activities and taken their views into account.

Audit approach and method

1.40 The audit approach and method consisted of:

- interviews and discussions with key staff in all ACT Government directorates;
- interviews and discussions with Aboriginal and Torres Strait Islander community representative groups and peak bodies;
- identifying and reviewing relevant information and documentation associated with the development, implementation and oversight of the 2019 Agreement;
- reviewing directorate public and internal reporting on the progress of implementing the 2019 Agreement; and
- examining a selection of directorate activities to implement the 2019 Agreement to determine if directorates take into account community views.

1.41 The ACT Audit Office engaged Curijo to lead community consultations and provide cultural advice and support to the Audit Office team.

1.42 The audit was performed in accordance with *ASAE 3500 – Performance Engagements*. The audit adopted the policy and practice statements outlined in the Audit Office's *Performance Audit Methods and Practices (PAMPr)* which is designed to comply with the requirements of the *Auditor-General Act 1996* and *ASAE 3500 – Performance Engagements*

1.43 In the conduct of this performance audit the ACT Audit Office complied with the independence and other relevant ethical requirements related to assurance engagements.

Introduction to the audit from Curijo

1.44 The following information is from Curijo, which led community consultations as part of the audit.

Cultural Context – Aboriginal and Torres Strait People in Australian Capital Territory (ACT)

1. Cultural Relevance

Aboriginal people have been occupying the Australian Capital Territory and surrounding regions for the past 20,000 years and maintain this link to present day. In the early 1820s, early settlers identified the dominant Aboriginal groups living in the surrounding regions as people from the Ngunnawal (Ngunawal), Ngarigo, Wiradjuri, and Walgalu nations. The Ngunnawal people being

acknowledged as the traditional custodians who occupied, for millennia, the lands of present day Canberra and Queanbeyan.³

2. Present Day Aboriginal Community

No historical data is available to indicate how many Aboriginal people lived in the local area since European settlement. The 2021 Census reported that the ACT had an Aboriginal and Torres Strait Islander population of around 9,000.⁴ The population consisting of people from the local traditional Aboriginal nations clans and peoples from other Aboriginal nations and the Torres Strait Islands. From this data, 94 percent identified being of Aboriginal ancestry, 2.6% being of Torres Strait Islander ancestry, and 3.4 percent of both ancestries.

Since the late 1970s, the Aboriginal population has increased dramatically from around one thousand people to its present level. Factors influencing this increase involved increased public sector employment and education opportunities, family obligations, lifestyle, and access to support services.⁵

3. Australian Capital Territory and Community Borders

The ACT was formally established in 1911 with its borders encompassing the traditional lands occupied by both the Ngunnawal and Ngarigo Aboriginal nations. Historically, their lands extended into the surrounding regions in all directions into New South Wales. Despite European settlement and the disruption to their traditional way of life, the Ngunnawal and other owners have maintained an ongoing cultural connection with their traditional lands, often referred to as 'Country.'

The Ngunnawal have over recent decades been willing to share their traditional knowledge with the ACT community by highlighting some of their traditional sites, cultural significance and language so as to enlighten people that these have meaning as part of the oldest living culture in the world.

4. ACT Human Rights Act

The ACT Government was the first Australian government to enact the *ACT Human Rights Act 2004*. The Act provides the statutory basis for respecting, protecting, and promoting human rights for its citizens. The Act provides special significance to the rights of Aboriginal and Torres Strait Islander peoples in recognition as the traditional owners of the ACT and surrounding lands. These rights extended to ensuring the enduring nature of their culture, beliefs, language and other practices.

Since then, the ACT Government has taken steps to work with the local Aboriginal community to reflect its ongoing commitment towards supporting self-determination. This commitment has involved a collaborative approach of consultation with various Aboriginal Community Controlled Organisations (ACCOs), formal recognition of the United Ngunnawal Elders Council (UNEC), and Indigenous participation in several government advisory groups.

In contrast the Commonwealth Government did endorse the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2009, it has not yet taken steps to implement UNDRIP into law policy of practice.⁶ The Commonwealth has committed to take steps to implement (in

³ *Aboriginal History of the Canberra Region*, Australian National University Archives Library, August 2021

⁴ Census June 2021, Estimated population

⁵ *ACT Aboriginal and Torres Strait Islander Population – A Demographic Analysis*, ACT Chief Minister's Department, July 2010

⁶ *Implementing UNDRIP*, Australian Human Rights Commission, Australia's Third Universal Periodic Review, 2021

time) the Declaration to ensure that Aboriginal and Torres Strait Islanders are able to enjoy the same rights on an equal basis.

5. ACT Aboriginal Torres Strait Islander Elected Body

In 2008, The Government established the Aboriginal and Torres Strait Islander Elected Body (ATSIEB). Its purpose was to consult with the local Aboriginal community and being able to advise on what support and services were needed in meeting the social, cultural and economic needs of Aboriginal people. In turn, the Government would be obligated to consider these issues, and if relevant, develop policies and services as a redress to these matters.

6. ACT Aboriginal and Torres Strait Islander Agreement 2019-2028

Prior to 2019, the ACT Government and the ATSIEB had negotiated the 2015-2018 Agreement, which reflects a statement of commitment to take steps to work towards improving the quality of life outcomes for the ACT Aboriginal and Torres Strait islander community.

In 2019, the ACT Government developed the current *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028* with the ATSIEB with the aim of collaborating and working together to identify and respond to the key priorities needs of Aboriginal and Torres Strait Islander peoples living in the ACT. This Agreement provides accountability to Aboriginal and Torres Strait Islander peoples, through the Aboriginal and Torres Strait Islander Elected Body and the ACT Government, to deliver programs and services and work in partnership with Aboriginal and Torres Strait Islander communities to address matters that are important to them.⁷

Under this Agreement, there are ten Focus Area Action Plans (FAAPs) containing agreed policies, programs, and actions to enable equitable outcomes for Aboriginal and Torres Strait Islander peoples in the ACT. Government directorates are responsible for implementing the FAPPs within their directorates and as part of whole of government initiatives. The FAAPs relates to both Core and Significant Areas involving:

- Children and Young People
- Cultural Integrity
- Inclusive Community
- Community Leadership
- Connecting the Community
- Life Long Learning
- Economic Participation
- Health and Wellbeing
- Housing
- Justice

7. Implementing the Agreement

Government's directorates are responsible for implementing the focus area action plans (FAAPs) for Phase 1 activities. A significant number of these FAAPs were not fully implemented and are now being considered for implementation during the next Phase.⁸ Directorates have recently commenced the planning for the implementation of Phase 2 FAAPs. Many of these FAAP activities are now aligned with the Commonwealth's National Agreement Closing the Gap Targets, with ACT Government recently submitting its 2022 Closing the Gap Report for inclusion in the National Reporting.

⁷ ACT Legislative Assembly Standing Committee on Education and Community Inclusion, February 2021

⁸ Source: ACT Audit Office analysis of directorate implementation plans, June 2022

The ACT Audit Office has conducted a performance audit to assess the overall effectiveness of the ongoing implementation of the Agreement's FAAPs, particularly how the Office of Aboriginal and Torres Strait Islander Affairs (OATSIA) and government directorates engage and consult with the local Aboriginal Community.

8. Community Engagement and Consultations

The ACT Audit Office retained Curijo (a local Aboriginal and Supply Nation Certified consulting business) to conduct a series of community engagements and consult several ACCOs, along with representatives from community based groups. Aboriginal consultants conducted these interviews with 10 groups seeking their comments on four specific topics of interest relating to:

- areas of improvement
- culturally safe services
- consideration of the community's view
- support for self determination

General comments from these interviews indicated that while most were aware of the Agreement; none were able to describe specific details on what they knew had or was being implemented by government directorates. Only the ATSIEB members were able to provide the consultants with limited information to the specific topics which was based on the level of their respective portfolio responsibilities. Consultants did note that information provided by the ATSIEB did not always reflect a collective viewpoint.

Overall, the ACCOs and community groups generally had a cynical view of their relationship with ATSIEB and government directorates with a strong emphasis that there was no real or effective consultations with them or the wider community. The table below lists those interviewed along with an outline of the services that they provided on behalf of the ACT Aboriginal and Torres Strait Islander peoples.

Table 1: Aboriginal ACCOs and Community Groups Interviewed

ACCO / Community Group	Type	Services Provided
1. Canberra Indigenous Business Network (CIBN)	ACCO	To promote and support local Aboriginal businesses in Canberra
2. ACTCOSS – Aboriginal & Torres Strait Islander service providers	Community	Not-for-profit peak body, representing not-for-profit community organisations
3. Gugan Gulwan	ACCO	Support young Aboriginal and Torres Strait Islander people and their families
4. CIT Yurauna	ACT Gov't	Student support centre providing tailored Aboriginal and Torres Strait Islander courses
5. Winnunga Nimmityjah	ACCO	Providing culturally safe and holistic health and community services
6. Yeddung Mura	ACCO	Providing holistic support to Aboriginal and Torres Strait Islander Justice clients and their families.

7. Sisters in Spirit (SISAC)	ACCO	Aims to affirm the rights of Aboriginal women maintain their own institutions, self-determination and against violence and discrimination
8. Aboriginal & Torres Strait Islander Elected Body (ATSIEB)	ACT Gov't	To consult with the local Aboriginal community and to provide advice to the ACT Government and directorates
9. United Ngunnawal Elders Council (UNEC)	Community	Provides traditional owner advice on cultural heritage within the ACT.

From the interviews conducted, Curijo's Aboriginal consultants found that the views of those interviewed in relation to the key questions varied but reflected a similar theme. These views referred to:

- the lack of cultural safety in government services and community consultations
- the consistency in services offered by directorates were not integrated and the lack of information about support services
- little information and feedback by government entities on issues and complaints raised by the local community
- some funded NGOs not prioritising the needs of Aboriginal clients
- ACT Government and directorates only consulting with select Aboriginal stakeholders
- key Aboriginal groups and community not consulted in relation to policy or program considerations
- inherent and historical problems and issues still existing and unresolved across several areas e.g. children in care; justice; housing; health; women and family safety; education and policing sectors; and
- community's overall view and understanding ATSIEB role is unclear and cynical

Suggestions from these interviews called for future opportunities to turn things around for the better. Opportunities where actions relate to:

- sharing information between the community and government service (where appropriate),
- recruiting/appointing more Aboriginal staff in the Service who have the experience into key service and /or decision making roles;
- having meaningful consultation and feedback processes established between the Aboriginal community and government agencies; and
- improving services to be more cultural safe for Aboriginal clients

With the conclusion of each round of interviews, Curijo's consultants asked interviewees a final question as to *"What did consultation mean to them."* Most responses related to:

- the need for meaningful consultation by government directorates and their representatives
- the cultural integrity of information provided in good faith
- the reciprocity of sharing data and information

2 GOVERNANCE ARRANGEMENTS

- 2.1 This chapter considers whole-of-government and directorate governance and oversight processes for the implementation of the 2019 Agreement. It also considers how roles and responsibilities have been assigned to implement the 2019 Agreement across directorates.

Summary

Conclusions

Governance arrangements to oversight the implementation of the ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 (the 2019 Agreement) have not been effective.

Twenty-four of 99 priority actions in the ten Phase One focus area action plans have not been adequately addressed by directorates in their implementation plans. This increases the risk of actions not being implemented in a joined-up way across ACT Government agencies, or that parts of the Agreement are not implemented at all. Furthermore, an Outcomes Framework, which was to be developed to demonstrate the impact of the 2019 Agreement on Aboriginal and Torres Strait Islander communities, has taken over two years to implement. Whole-of-government governance committees (the Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board and the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee) have not provided effective oversight of the implementation of the 2019 Agreement.

Most directorates had processes to oversight the implementation of their specific commitments under the 2019 Agreement. Effective processes to oversight implementation included the use of directorate registers to track implementation, and regular meetings with members of the Aboriginal and Torres Strait Islander Elected Body. In a number of instances, however, actions reported by directorates were not relevant to, and did not support, the related commitment in the 2019 Agreement.

Key findings

Paragraph

Cross-directorate oversight committees

Two cross-directorate governance committees were established to oversight the implementation of the 2019 Agreement; the Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board; and the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee. Neither committee has had sufficiently stable and consistent attendance by members since the commencement of the 2019 Agreement and neither committee has met according to the timeframes set down by their terms of reference. Action items have been consistently noted in the meeting minutes of both committees, but the completion

2.26

of actions has not been consistently reported or tracked to their ultimate completion. The Strategic Board sub-committee has not effectively fulfilled its responsibility under its terms of reference to oversight risk management of the 2019 Agreement. These issues limit the effectiveness of these committees to maintain oversight and accountability for directorates to implement their obligations under the 2019 Agreement.

At the commencement of the 2019 Agreement, the development of an Outcomes Framework was identified as a means by which to oversight agency performance. It took over two years to implement. While some consideration was necessary to ensure alignment with the National Agreement for Closing the Gap, which was agreed in November 2020, the Aboriginal and Torres Strait Islander Elected Body expressed frustration at the lack of transparency and progress in developing the Outcomes Framework at its public hearings in March 2020. Progress in the development of the Outcomes Framework accelerated in late 2020 and updated directorate implementation plans were agreed with the Elected Body in the first half of 2021.

2.32

Directorate oversight arrangements

Each directorate has an implementation plan that documents its commitments under the 2019 Agreement. Most directorates were able to demonstrate processes for the monitoring of progress in relation to the commitments in the implementation plan that involved: a register that was used by staff to provide regular updates on progress to senior directorate leadership; and regular meetings or briefings between senior directorate leadership and members of the Aboriginal and Torres Strait Islander Elected Body. Despite these arrangements, a review of directorates' commitment registers found missing commitments and reported actions that did not sufficiently relate to the commitment on the directorate's implementation plan.

2.55

There are two sets of governing documents that track directorates' accountability for the implementation of Phase One of the 2019 Agreement:

2.74

- focus area action plans: publicly available documents available alongside the 2019 Agreement that list priority actions across ten different areas that have been prioritised for improving outcomes for Aboriginal and Torres Strait Islander communities. These documents were agreed as part of the 2019 Agreement; and
- directorate implementation plans: internal documents that identify specific actions for each directorate to implement the 2019 Agreement. These are agreed directly between each directorate and a representative of the Elected Body. These implementation plans are not publicly available.

There are gaps in directorate accountabilities to implement priority actions under the 2019 Agreement. Not all priority actions from the focus area action plans have been appropriately addressed in directorate implementation plans; the Audit Office considers that 24 priority actions outlined in Phase One focus area action plans were not appropriately recognised in directorate implementation plans. Eleven of these 24 were whole-of-government actions that no directorate recognised in their

2.75

implementation plan. The remaining 13 of 24 priority actions that were unassigned were the responsibility of at least one directorate. Some directorates were more effective than others in recognising their individual responsibilities in their implementation plans.

Directorates have since implemented clearer accountabilities for implementing each focus area action plan as part of Phase Two of the 2019 Agreement. If these accountabilities are effectively acquitted, this is expected to assist with better quality implementation and reporting of priority actions under the 2019 Agreement.

2.76

Cross-directorate oversight committees

2.2 There are two cross-directorate committees with responsibility for overseeing ACT Public Service implementation activities:

- Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board (Strategic Board sub-committee); and
- Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee (Inter-Directorate committee).

Aboriginal and Torres Strait Islander sub-committee of Strategic Board

2.3 The role of the Strategic Board sub-committee is outlined in its terms of reference:

It is the role of the Aboriginal and Torres Strait Islander Affairs Committee to provide strategic leadership and oversight across the ACT Public Service in driving policy, program, and service delivery reform to enable self-determination for Aboriginal and Torres Strait Islander communities in the ACT.

Central to this is leading the generational change required to achieve the intent of the *ACT Aboriginal and Torres Strait Islander Agreement 2019-2028* (ACT Agreement) and the *National Agreement on Closing the Gap 2020* (National Agreement).

The Committee performs its role in close collaboration with the Office for Aboriginal and Torres Strait Islander Affairs and the ACT Aboriginal and Torres Strait Islander Elected Body (including in their role as the ACT Coalition of Peaks representative).

As a collective, the Committee is responsible for:

- Driving the ACT Government's contribution to the Closing the Gap Partnership with a focus on achieving the Priority Reform Areas in the National Agreement and to the ACT Agreement.
- Leading strategic responses and purposeful collaboration to realise emerging opportunities and risks with potential to impact Aboriginal and Torres Strait Islander communities.
- Providing leadership to, and collaborating with, other Strategic Board committees and working groups on Aboriginal and Torres Strait Islander priorities and ACT Agreement commitments to inform Cabinet decision making.

The Committee will also consider matters referred to it by the Head of Service, Cabinet, Strategic Board, Directors-General, Auditor-General, and/or other appropriate governance bodies.

Meeting frequency and attendance

- 2.4 The terms of reference of the Strategic Board sub-committee require it to meet once every two months. A review of the Strategic Board sub-committee's meeting minutes since the commencement of the 2019 Agreement shows that it has not met this requirement. The Strategic Board sub-committee has met approximately every three months except for the period around the start of the COVID-19 pandemic where it did not meet for seven months.
- 2.5 The membership of the Strategic Board sub-committee is set out in its terms of reference. It is chaired by the Director-General of the Community Services Directorate. Its other members include:
- Directors-General for the ACT Health, Education, Environment, Planning and Sustainable Development, Justice and Community Safety and Transport Canberra and City Services Directorates;
 - Deputy Director-General for the Chief Minister, Treasury and Economic Development Directorate;
 - Chief Executive Officer, Canberra Health Services; and
 - Chief Projects Officer, Major Projects Canberra; and
 - Chief Police Officer, ACT Policing.
- 2.6 Based on a review of meeting records since the commencement of the 2019 Agreement, it is apparent that:
- the chair has attended all meetings;
 - there has been only one meeting during the reviewed period where all members have attended;
 - members have not consistently attended meetings. For the 15 meetings to September 2022, of the ten regular members of the Strategic Board sub-committee:
 - at least one regular member has been absent with no proxy recorded for eight meetings;
 - six meetings have proceeded with one proxy in attendance;
 - four meetings have proceeded with three proxies in attendance; and
 - two meetings have proceeded with four proxies in attendance.
- 2.7 The terms of reference allow the chair to invite the chairperson of the Aboriginal and Torres Strait Islander Elected Body to attend meetings. The chairperson of the Aboriginal and Torres Strait Islander Elected Body has consistently attended meetings of the Strategic Board sub-committee.

Meeting focus

- 2.8 Meetings of the Strategic Board sub-committee consistently included:
- updates from the Inter-Directorate committee on progress in implementing the 2019 Agreement; and
 - discussion of key projects and activities undertaken under the 2019 Agreement.
- 2.9 Action items were consistently noted in meeting minutes, but the completion of actions was not consistently reported. While the Strategic Board sub-committee did incorporate ongoing tracking of actions from mid-2021 in an actions log, a reset of the actions log in 2022 meant that outstanding items from 2021 were no longer tracked.

Risk oversight

- 2.10 A review of meeting minutes shows little discussion of how risks to the achievement of outcomes for Aboriginal and Torres Strait Islander communities would be managed.
- 2.11 The Strategic Board sub-committee does not use a risk register and does not review or endorse an overarching risk management plan for the implementation of the 2019 Agreement.
- 2.12 The Strategic Board sub-committee's terms of reference identifies it as having responsibility for 'leading strategic responses and purposeful collaboration [for] risks with potential to impact Aboriginal and Torres Strait Islander communities'. Notwithstanding this responsibility, the Strategic Board sub-committee has not explicitly discussed risk in any meetings during the term of the 2019 Agreement.
- 2.13 One way the Strategic Board sub-committee can discharge its responsibilities with respect to 'leading strategic responses and purposeful collaboration [for] risks with potential to impact Aboriginal and Torres Strait Islander communities' is by seeking assurance from the Inter-Directorate committee, and ultimately directorates, that material risks have been identified and appropriate control strategies are in place.
- 2.14 However, no directorate has developed or implemented discrete 2019 Agreement-specific risk management practices. Directorates have not developed or implemented any structured approach to managing risks to realising the objectives of the 2019 Agreement.
- 2.15 Feedback was received from the ACT Council of Social Service (ACTCOSS) in response to the final proposed report. ACTCOSS was of the view that there did not appear to be sufficient mechanisms in place to facilitate communication between Aboriginal and Torres Strait Islander communities and the Strategic Board sub-committee or Inter-Directorate committee. ACTCOSS' view was that knowledge about these committees' work is not communicated to communities, nor is there a perception that communities have sufficient mechanisms to provide input to these bodies or constructive advice as to their performance.

- 2.16 The ACT Health Directorate advised, however, in its response to the draft proposed report that risks from the COVID-19 pandemic were considered and recognised. The response was to focus on managing outbreaks in high-risk settings, including living arrangements that put Aboriginal and Torres Strait Islander people at increased risk. The directorate also advised that \$580,000 was allocated to support Aboriginal and Torres Strait Islander community organisations during the pandemic, as well as including community organisations in developing the response to the pandemic.

Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee

- 2.17 The role of the Inter-Directorate committee is recorded within its terms of reference as:
- Implementing and monitoring of the *Aboriginal and Torres Strait Islander Agreement 2019-2028* including the development of the reporting framework;
 - Providing six-monthly progress reports to the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee on the progress made against the *Aboriginal and Torres Strait Islander Agreement 2019-2028*;
 - Assisting the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee with other matters that require Cross-Directorate input and advice; and
 - Seeking Aboriginal and Torres Strait Islander policy advice on systemic and whole of government issues for the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee.

Meeting frequency and attendance

- 2.18 The terms of reference of the Inter-Directorate committee require it to meet every six weeks. A review of the Inter-Directorate committee's meeting minutes since the commencement of the 2019 Agreement shows that it did not meet this requirement. Three meetings did not proceed because of lockdowns during the COVID-19 pandemic, while there were gaps of at least three months between meetings at the end of each calendar year during this period.

- 2.19 The membership of the Inter-Directorate committee is set out in its terms of reference, which state:

IDC is chaired by the Executive Group Manager, Strategy Policy, Community Services Directorate.

All directorates must be represented on the IDC and hold the position of Deputy Director General or Executive Group Manager. Directorate representatives are at the discretion of the Director General. Directorates may have more than one representative given the diversity of their portfolio.

- 2.20 A review of meeting minutes since the commencement of the 2019 Agreement shows the following patterns of attendance for the 22 meetings held between May 2019 and October 2022:

- there were 100 unique attendees across all ACT Government agencies during this time; and

- despite the requirement for directorates to be represented by a deputy director-general or executive group manager, non-executive staff represented at least one directorate at 19 meetings.
- 2.21 The high number of unique attendees has contributed to a lack of continuity in directorate representatives. There have been no meetings during this time where all directorates have had a senior executive representative who also attended the prior meeting. The high turnover of the representation at the Inter-Directorate committee was recognised as a risk by the chair at its March 2021 meeting. The chair asked members to review the accuracy of nominated members and proxy members.
- 2.22 The Inter-Directorate committee is, in practice, co-chaired by the Chair or Deputy Chair of the Aboriginal and Torres Strait Islander Elected Body. However, the terms of reference have not been updated to confirm this.

Meeting focus

- 2.23 At its meetings the Inter-Directorate committee regularly discussed matters associated with the reporting framework, including the Outcomes Framework, annual reporting matters and sourcing of data to demonstrate performance against commitments.
- 2.24 Action items have been consistently noted in meeting minutes since the commencement of the 2019 Agreement. Meeting minutes did not consistently report on the completion of action items for the Inter-Directorate committee until April 2020. However, action logs were reset at the commencement of 2021 and 2022. Any actions not completed at the end of each year were not clearly tracked as an ongoing action item or otherwise addressed at the commencement of the following year.
- 2.25 The Inter-Directorate committee has not fulfilled its responsibilities to report to the Strategic Board sub-committee each six months on the progress made to implement the 2019 Agreement. The Inter-Directorate committee has only produced two such reports for the Strategic Board sub-committee in November 2019 and September 2020. This and other whole-of-government performance reporting is discussed in further detail in Chapter 4.
- 2.26 Two cross-directorate governance committees were established to oversight the implementation of the 2019 Agreement; the Aboriginal and Torres Strait Islander Affairs sub-committee of the ACT Public Sector Strategic Board; and the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee. Neither committee has had sufficiently stable and consistent attendance by members since the commencement of the 2019 Agreement and neither committee has met according to the timeframes set down by their terms of reference. Action items have been consistently noted in the meeting minutes of both committees, but the completion of actions has not been consistently reported or tracked to their ultimate completion. The Strategic Board sub-committee has not effectively fulfilled its responsibility under its terms of reference to oversight risk management of the 2019 Agreement. These issues limit the effectiveness of these committees to maintain oversight

and accountability for directorates to implement their obligations under the 2019 Agreement.

Cross-directorate committee oversight

2.27 The 2019 Agreement identified the following arrangements for agency accountability for its implementation:

- **Outcomes Framework** will track our performance against the core outcomes identified in the Agreement. Strategic Indicators will be reported to the Aboriginal and Torres Strait Islander Sub Committee of the ACT Strategic Board and made publicly available via an annual statement of performance by the Minister for Aboriginal and Torres Strait Islander Affairs.
- **Focus Area Action Plans** will track the work underway to achieve the targets set in the Outcomes Framework. Directorates will report against the actions prescribed as part of their reporting process and will update actions as work progresses towards achieving the 10 year outcomes.

Outcomes framework

2.28 At the commencement of the 2019 Agreement, it was identified that an Outcomes Framework would be developed to oversight agency performance. Further detail on the Outcomes Framework is in Chapter 4. In summary, it contains outcome level performance data for each focus area action plan, along with associated indicators and baseline data. The Outcomes Framework was finalised in April 2021, over two years after the commencement of the 2019 Agreement.

2.29 There was a lack of timely directorate engagement to design and implement the Outcomes Framework in the early stages of the 2019 Agreement. For example, it took the Inter-Directorate committee until November 2019, more than six months after the commencement of the 2019 Agreement, to establish a data working group to commence development of the framework. This is despite actions raised as part of its May 2019 meeting for directorates to nominate representatives for this task. Delays were then experienced in early 2020 due to the commencement of the COVID-19 pandemic. Nevertheless, the Inter-Directorate committee regularly restated its aim to complete the Outcomes Framework throughout this period.

2.30 At the Inter-Directorate committee's April 2020 meeting, the chair of the Elected Body conveyed frustration at the slow progress associated with implementing the Outcomes Framework. The chair expressed a lack of confidence in the directorates' progress towards implementing actions under the 2019 Agreement. This frustration was also communicated through the Elected Body's public hearings in March 2020. In its report to the ACT Government on the March 2020 hearings the Elected Body stated:

... the Elected Body has not been privy to the progress of the outcomes framework which is a partner to the [ACT] Agreement. The outcomes framework, we assume, would include baseline measures and information on data sources, definitions and parameters on every target and priority action so that we can start the intensive process of understanding where progress is being made, and where it is not. The lack of transparency and engagement on the

progress and validity of the outcomes framework is deeply frustrating after the enthusiasm and vision with which the Agreement was launched.

... Targets are not helpful if they simply stay 'in progress' for ten years and then we discover we did not have data and it becomes a meaningless exercise.

- 2.31 Directors-General received the Elected Body's report on these public hearings on 29 September 2020. Progress improved shortly after, from November 2020, when the Head of Service requested accelerated action on whole-of-government priorities and the completion of an acquittal of individual directorate progress on implementing 2019 Agreement actions for which they were directly responsible. This led to updated directorate implementation plans being agreed with the Elected Body in the first half of 2021, except for the Environment, Planning and Sustainable Development Directorate, which completed a draft plan that was not formally endorsed. The finalised Outcomes Framework was also implemented during this period of focussed effort.
- 2.32 At the commencement of the 2019 Agreement, the development of an Outcomes Framework was identified as a means by which to oversight agency performance. It took over two years to implement. While some consideration was necessary to ensure alignment with the National Agreement for Closing the Gap, which was agreed in November 2020, the Aboriginal and Torres Strait Islander Elected Body expressed frustration at the lack of transparency and progress in developing the Outcomes Framework at its public hearings in March 2020. Progress in the development of the Outcomes Framework accelerated in late 2020 and updated directorate implementation plans were agreed with the Elected Body in the first half of 2021.

RECOMMENDATION 1 GOVERNANCE COMMITTEES

The Community Services Directorate, through its responsibility as chair of the governance committees that oversight the implementation of the 2019 Agreement (the Strategic Board sub-committee and the Inter-Directorate committee) should:

- a) update the Inter-Directorate committee's terms of reference to recognise the Aboriginal and Torres Strait Islander Elected Body's co-chair responsibility for the committee;
- b) ensure action items raised in governance committee meetings are tracked to their conclusion in meeting minutes; and
- c) establish a process for the Aboriginal and Torres Strait Islander Elected Body to assess the effectiveness of the governance committees and report this to the ACT Public Service Strategic Board and ACT Government as signatories to the 2019 Agreement.

Directorate oversight arrangements

- 2.33 Each directorate has an implementation plan that documents its commitments under the 2019 Agreement. Effective oversight is needed to monitor the progress of these

commitments, in consultation with community stakeholders, in order to realise intended outcomes.

2.34 The Audit Office reviewed processes in each directorate to determine if there was effective monitoring and oversight of commitments made under the 2019 Agreement. Table 2-1 shows the Audit Office's assessment of directorates' monitoring and oversight arrangements, with respect to two key mechanisms:

- regular reporting to a directorate governance body; and
- regular reporting to an Elected Body representative.

Table 2-1 Directorate processes to monitor 2019 Agreement commitments

Directorate	Regular reporting to a governance body	Regular reporting to an Elected Body representative
ACT Health Directorate	x	✓
Canberra Health Services	✓	✓
Chief Minister, Treasury and Economic Development Directorate	✓	✓
Community Services Directorate	x	✓
Environment, Planning and Sustainable Development Directorate	x	✓
Education Directorate	✓	✓
Justice and Community Safety Directorate	✓	✓
Transport Canberra and City Services Directorate	✓	✓

Source: ACT Audit Office analysis, based on directorate documentation.

ACT Health Directorate

2.35 Until 2022, the ACT Health Directorate did not have a structured approach to monitoring its implementation of obligations under the 2019 Agreement. The ACT Health Directorate acknowledged that, prior to this, there were ineffective arrangements in place to monitor implementation. Arrangements were devolved across the directorate and this did not allow for effective oversight.

2.36 In its response to the draft proposed report, the ACT Health Directorate advised the ineffective arrangements were a result of the COVID-19 pandemic. The directorate advised that prior to the impact of the COVID-19 pandemic in early 2020 there were quarterly reports to its Executive Board on progress to implement its action plan. This was discontinued during the COVID-19 pandemic in order to prioritise a response to the pandemic and focus on other ways to support Aboriginal and Torres Strait Islander people.

- 2.37 The ACT Health Directorate advised that a monthly reporting system had since been developed and implemented after June 2022. Information on implementation was being communicated up to the Director-General, Elected Body representative and the Directorate's Ministerial and Governance team. However, the arrangements were yet to be effectively implemented because of staffing changes and a lack of documented processes. An Agreement Coordination Group has since been re-established.

Canberra Health Services

- 2.38 Canberra Health Services was able to show processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.39 Implementation activity is reported to Canberra Health Services' Aboriginal and Torres Strait Islander Steering Group. This steering group is chaired by the Deputy Chief Executive Officer, has executive representation across the directorate's service lines, and includes Aboriginal Liaison Officers, Aboriginal and Torres Strait Islander consumer representatives and representation from the ACT Health Directorate. Since May 2022, the steering group has functionally reported to Canberra Health Services' Governance Committee. As the Governance Committee is relatively new and has been affected by some issues of staff availability in the latter part of 2022, the Aboriginal and Torres Strait Islander Steering Group has not yet reported to the committee.
- 2.40 Meeting records from the Aboriginal and Torres Strait Islander Steering Group show that it had a committee action plan to address its commitments under the 2019 Agreement. The action plan is mapped and reported against the National Safety and Quality Health Service Standards, which are standards that Canberra Health Services must comply with across its organisation. Implementation progress on the action plan is periodically reported with due dates, is assigned to responsible executives and managers and shows completion status and associated commentary. Actions from Steering Group meetings are tracked in meeting minutes with progress reviewed and tracked at each meeting.

Chief Minister, Treasury and Economic Development Directorate

- 2.41 The Chief Minister, Treasury and Economic Development Directorate was able to show processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.42 Responsibility for monitoring and oversight of the Chief Minister, Treasury and Economic Development Directorate's commitments under the 2019 Agreement is assigned to an executive branch manager. Progress is tracked through a commitment register, which includes key milestones and status updates and shows which of the directorate's groups has responsibility for implementation. Updates on progress to implement 2019 Agreement obligations are provided to the directorate's Executive Management Group every six months.
- 2.43 Despite these processes, a significant priority action to 'review and implement the Whole of Government employment strategy for Aboriginal and Torres Strait Islander people' was

not included on its commitment register. The Chief Minister, Treasury and Economic Development Directorate advised that this commitment has not been completed. In its response to the final proposed report, the directorate advised that it continued with the implementation of actions to support the representation and career development of Aboriginal and Torres Strait Islander peoples under the ACTPS Aboriginal and Torres Strait Islander Employment Framework.

Community Services Directorate

- 2.44 The Community Services Directorate was not able to show any processes for the oversight of its implementation of obligations under the 2019 Agreement, but was able to demonstrate regularly meeting with a member of the Elected Body to discuss the implementation of the 2019 Agreement.

Environment, Planning and Sustainable Development Directorate

- 2.45 The Environment, Planning and Sustainable Development Directorate was able to show some processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.46 Oversight of its obligations was expected to be achieved through an executive group manager, who is assigned responsibility to report progress on 2019 Agreement obligations to the directorate's Executive Management Board. However, evidence of this reporting was not provided.
- 2.47 The directorate did, however, demonstrate regular monthly meetings with a member of the Elected Body on 2019 Agreement implementation progress. It also provided evidence of being accountable to the Dhawura Ngunnawal Caring for Country Committee for implementing its obligations under the 2019 Agreement. This committee is co-chaired by an executive group manager and a Ngunnawal elder, and its membership includes between eight to 10 additional Ngunnawal elders.

Education Directorate

- 2.48 The Education Directorate was able to show its processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.49 The Education Directorate's 2019 Agreement obligations are assigned to branches within the directorate. The Education Directorate then meets monthly with a member of the Elected Body and reports on its progress to implement these obligations. This includes commentary for each action and a high-level status update to indicate whether the action is completed, in progress or ongoing with ongoing commitments documented to show how actions are implemented in business as usual tasks.

Justice and Community Safety Directorate

- 2.50 The Justice and Community Safety Directorate was able to show its processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.51 The Justice and Community Safety Directorate reports on its progress to implement the 2019 Agreement by reporting to its Elected Body representative and to a community consultative body; the Justice Caucus. However, the Justice Caucus has not met consistently enough to allow the directorate to acquit its responsibility to the body. The directorate advised, in its response to the draft proposed report, that the Justice Caucus has been refreshed and in doing so:
- met on 22 February 2023, and set quarterly meetings for the remainder of 2023;
 - appointed two new co-chairs; and
 - agreed to revised terms of reference which include a more representative membership, and a facility for government and community co-chairs to be appointed.
- 2.52 Despite this, the Director-General of the Justice and Community Safety Directorate meets regularly with a member of the Elected Body. Briefing material supplied to the Director-General demonstrated that the directorate had effective processes to determine progress on its commitments. The directorate also advised it has implementation plans for each of its commitments and that these are monitored on a quarterly basis.

Transport Canberra and City Services Directorate

- 2.53 The Transport Canberra and City Services Directorate was able to show its processes for the oversight of its implementation of obligations under the 2019 Agreement.
- 2.54 The Transport Canberra and City Services Directorate advised that its corporate governance team monitors progress and provides updates to the Elected Body on a period basis. Briefing material provided to the Elected Body demonstrates the directorate's understanding of progress to implement its 2019 Agreement obligations. The briefing material also showed that responsibility for actions had been assigned to business units within the directorate. Reporting showed genuine progress being made to implement the directorate's obligations under the 2019 Agreement.
- 2.55 Each directorate has an implementation plan that documents its commitments under the 2019 Agreement. Most directorates were able to demonstrate processes for the monitoring of progress in relation to the commitments in the implementation plan that involved: a register that was used by staff to provide regular updates on progress to senior directorate leadership; and regular meetings or briefings between senior directorate leadership and members of the Aboriginal and Torres Strait Islander Elected Body. Despite these arrangements, a review of directorates' commitment registers found missing commitments and reported actions that did not sufficiently relate to the commitment on the directorate's implementation plan.

RECOMMENDATION 2 OVERSIGHT OF DIRECTORATE PROGRESS AGAINST THE 2019 AGREEMENT

The ACT Health Directorate, Community Services Directorate and Environment, Planning and Sustainable Development Directorate should:

- a) review the authority and operation of their senior governance committees to ensure they have a clear responsibility to oversight and lead the implementation of their obligations under the 2019 Agreement; and
- b) implement more robust processes for tracking progress in implementing commitments under the 2019 Agreement. This could involve using a commitments register that facilitates the regular review of progress with senior executives and governance committees and regular meetings with Aboriginal and Torres Strait Islander Elected Body representatives.

Assignment of responsibilities to implement the 2019 Agreement

- 2.56 When preparation for the 2019 Agreement commenced in 2018, it was agreed through the Inter-Directorate committee that directorates would be responsible for establishing directorate implementation plans that provided further detail on their implementation of commitments under the 2019 Agreement's ten focus area action plans.
- 2.57 These directorate implementation plans are not publicly reported, but were intended to align with the public facing focus area action plans. The Audit Office was advised that the intent for not reporting the directorate implementation plans was to present a single public facing response to the 2019 Agreement across all directorates. The focus area action plans contained priority actions that were intended to be completed across ACT Government directorates in accordance with the first phase of the 2019 Agreement.
- 2.58 Through the directorate implementation plans it was intended that each directorate was to be individually accountable for implementing their priority actions under the 2019 Agreement. Implementing priority actions is the key activity that directorates are individually responsible for under the 2019 Agreement. The directorates developed their implementation plans and submitted them to the chair of the Aboriginal and Torres Strait Islander Elected Body through the Inter-Directorate committee in October 2018.

Responsibilities for implementing focus area priority actions

- 2.59 The Audit Office examined all ten Phase One focus area action plans to determine which directorates were accountable for implementing each of the 99 priority actions contained within these plans. For the purpose of this analysis, accountability for priority actions was identified as falling into three main categories:

- priority actions that are clearly attributable to a specific directorate. For example, the Education Directorate was responsible for implementing most of the nine priority actions under the Life Long Learning focus area action plan. There were 41 of 99 actions that were the sole responsibility of one directorate;
- priority actions where multiple directorates have a responsibility for implementation. An example would include parts of the Justice and Children and Young People focus area action plans that have responsibilities attached to both Community Services and Justice and Community Safety directorates. There were 32 of 99 actions that were the responsibility of multiple, but not all, directorates; and
- priority actions that all directorates have a responsibility to implement. Community Leadership, Cultural Integrity and Inclusive Community focus area action plans have many of these kinds of priority actions. There were 24 of 99 actions that were the responsibility of all directorates.

2.60 There were also two actions that were either restatements or duplicates of other priority actions.

2.61 Directorate implementation plans were then reviewed to determine if all priority actions in the ten Phase One focus area action plans had been relevantly and appropriately addressed by directorates. The Audit Office sought confirmation that the directorates had:

- acknowledged priority actions under each focus area action plan that they could reasonably be expected to have a responsibility for implementation by identifying the priority action in their implementation plan; and
- identified planned action that adequately addressed the priority action.

Assignment of whole-of-government priority actions in implementation plans

2.62 Audit Office analysis of directorate implementation plans identified 24 of 99 priority actions in the Phase One focus area action plans that all directorates had a responsibility to implement. Of these 24 whole-of-government priority actions, 11 priority actions were not addressed by any directorates in their implementation plans. The priority actions that were not addressed by any directorates in their implementation plans are shown at Table 2-2.

Table 2-2 Priority actions from focus area action plans not addressed by any directorate

Focus Area Action Plan	Unassigned priority action
Community Leadership	Strengthen government processes to drive alignment of policy, legislation and programs to the focus areas of ACT Aboriginal and Torres Strait Islander Agreement 2019-2028.
Connecting the Community	Celebrate Aboriginal and Torres Strait Islander culture through delivery of and participation in community events.

Focus Area Action Plan	Unassigned priority action
Cultural Integrity	Embed Traditional Custodian and the broader Aboriginal and Torres Strait Islander community's aspirations into legislation and policy development.
Cultural Integrity	Develop processes and mechanisms that embed cultural integrity into government.
Cultural Integrity	Engage with specialist organisations to develop tools and resources to measure the success or otherwise of engagement with the Aboriginal and Torres Strait Islander community.
Cultural Integrity	Include cultural proficiency measures within ACT Government reporting.
Inclusive Community	Celebrate International Year of Indigenous Languages throughout the ACT in 2019.
Inclusive Community	Engage and work with the Aboriginal and Torres Strait Islander community in the design of government policy and reform.
Inclusive Community	Ensure ACT Government policy and reform acknowledges and supports the needs of Aboriginal and Torres Strait Islander people who identify with diversity groups.
Inclusive Community	Embed Aboriginal and Torres Strait Islander culture and language into ACT Government policy and practice using the cultural protocols.
Inclusive Community	Foster Aboriginal and Torres Strait Islander employee networks within ACT Government.

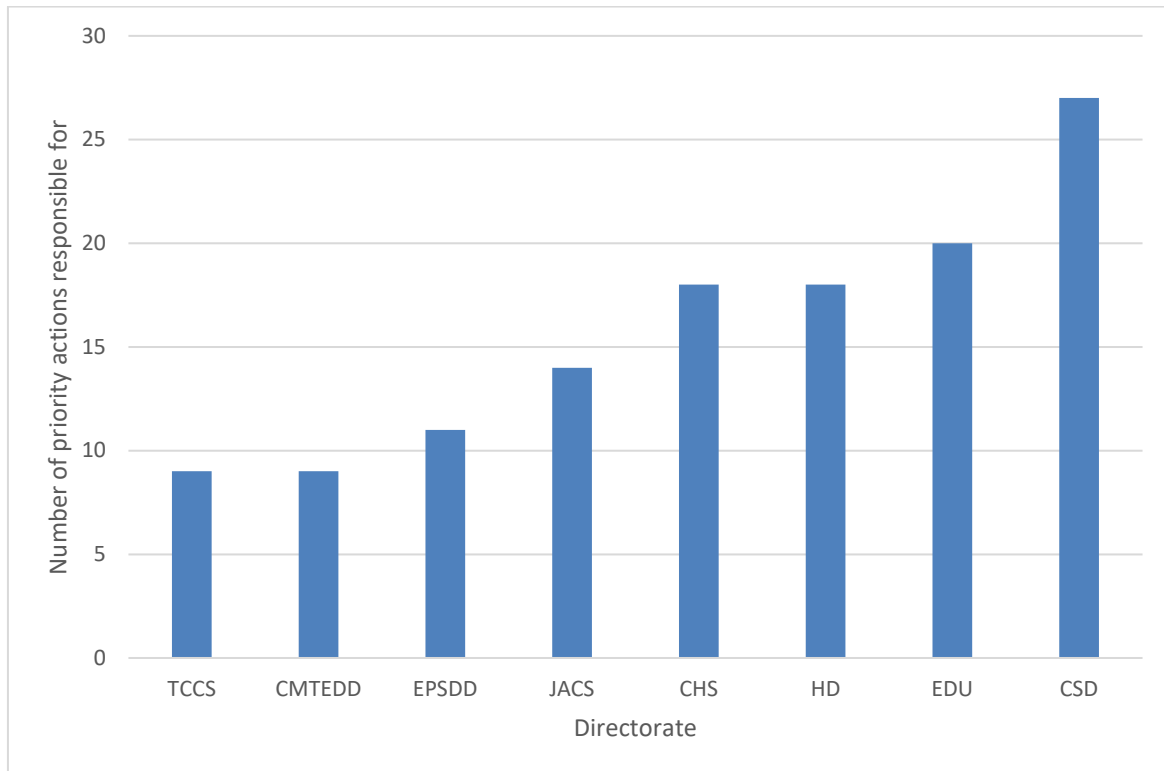
Source: ACT Audit Office analysis

2.63 Housing ACT advised in its response to the final proposed report that it has included actions in its Phase Two implementation plan to embed cultural integrity and practices across its organisation.

Assignment of non-whole-of-government priority actions

2.64 There are 73 priority actions that are the responsibility of at least one directorate (excluding ones that were the responsibility of all directorates). Figure 2-1 shows how many priority actions each directorate was responsible for under the ten Phase One focus area action plans. This shows that each directorate was responsible for between nine priority actions (Transport Canberra and City Services Directorate and Chief Minister, Treasury and Economic Development Directorate) to 27 priority actions (Community Services Directorate).

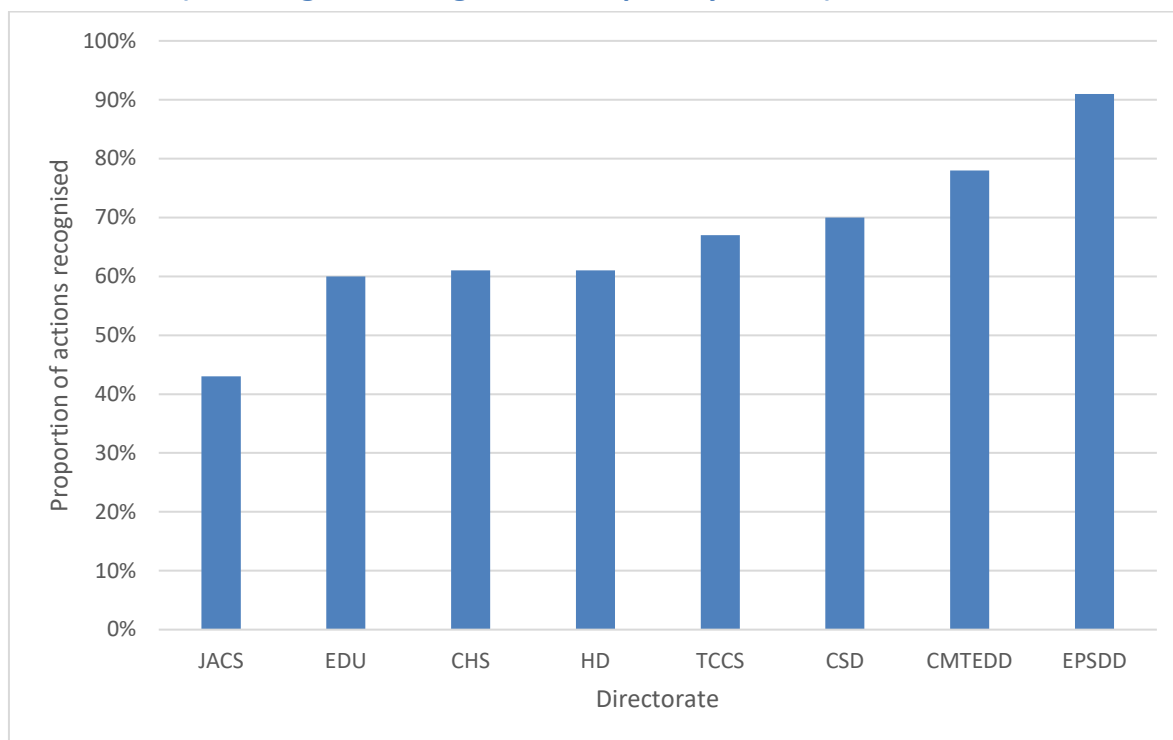
Figure 2-1 Number of priority actions each directorate was responsible for in Phase One focus area action plans (excluding whole-of-government actions)



Source: ACT Audit Office

- 2.65 Of the 73 priority actions in the Phase One focus area action plans that were the responsibility of one or more directorates to implement, 13 actions were not recognised in any directorate implementation plans.
- 2.66 Figure 2-2 shows the proportion of priority actions that each directorate was responsible for and had appropriately recognised in their directorate implementation plan.

Figure 2-2 Proportion of priority actions recognised in implementation plans (excluding whole-of-government priority actions)



Source: ACT Audit Office analysis

Results across all priority actions in the Phase One focus area action plans

2.67 Across all 99 priority actions of the Phase One focus area action plans, 24 actions were not accounted for in directorate implementation plans. The lack of clear accountabilities for each priority action under the Phase One focus area action plans makes attribution difficult and have left some priority actions not addressed by any directorate. In preparation for Phase Two of the 2019 Agreement, the Inter-Directorate committee agreed that one directorate would be identified as having responsibility for leading the development of each focus area action plan. The lead directorate is expected to be supported by up to four other directorates in this work. If directorates have an active role to play in developing both the focus area action plans and their implementation plans in partnership with the Aboriginal and Torres Strait Islander Elected Body, this may assist with improving the connection between these documents.

Reporting to the Strategic Board sub-committee

2.68 The Inter-Directorate committee is required under its terms of reference to provide six monthly progress reports on the implementation of the 2019 Agreement. Unclear responsibilities and lack of effective planning in completing priority actions under the focus area actions plans has compromised the quality of reporting to the Strategic Board sub-committee.

- 2.69 Because directorates did not actively plan to implement the priority actions at Table 2-2 under their directorate implementation plans, they did not implement activities that were directly relevant and linked to these actions. However, progress reporting to the Strategic Board sub-committee was broadly aligned to the publicly reported focus area action plans. Due to the disconnect between these documents, directorates often either:
- attempted in their reporting to fill this gap by reporting activity which did not strongly relate to the priority action; or
 - did not report against it at all.
- 2.70 An example of this is outlined in the following case study. The function of these progress reports are discussed in further detail in Chapter 4.

Case Study – Reporting on support for Aboriginal and Torres Strait Islander members of other diversity groups

- 2.71 The Inclusive Community focus area action plan under the 2019 Agreement includes the following priority action:
- Ensure ACT Government policy and reform acknowledges and supports the needs of Aboriginal and Torres Strait Islander people who identify with diversity groups.
- 2.72 In the September 2020 progress report from the Inter-Directorate committee:
- the Education Directorate marked the action as ‘complete’, albeit without outlining any activities that specifically addressed Aboriginal and Torres Strait Islander people who identify with diversity groups;
 - four directorates (Transport Canberra and City Services, Community Services, ACT Health and Canberra Health Services) marked the action as ‘in progress’, without outlining any activities that specifically addressed Aboriginal and Torres Strait Islander people who identify with diversity groups;
 - the Justice and Community Safety Directorate stated it had not undertaken any action to address the priority action, and did not identify any plans to do so;
 - the Chief Minister, Treasury and Economic Development Directorate did not acknowledge the priority action; and
 - the Environment, Planning and Sustainable Development Directorate did not report on its progress at all in the report.
- 2.73 No directorate implementation plan included activities against this priority action. This indicates that any actions that were undertaken that address the priority action were incidental to the 2019 Agreement. In its response to the draft proposed report the Education Directorate advised that its policies, supports and initiatives are developed and implemented in a way to ensure that people’s diverse identities are recognised and valued. While some reporting is given by directorates that is represented as a progress report to implement the 2019 Agreement, this information provides no assurance to the Strategic

Board sub-committee or the Elected Body that any material progress specific to the 2019 Agreement has been made to implement this priority action.

2.74 There are two sets of governing documents that track directorates' accountability for the implementation of Phase One of the 2019 Agreement:

- focus area action plans: publicly available documents available alongside the 2019 Agreement that list priority actions across ten different areas that have been prioritised for improving outcomes for Aboriginal and Torres Strait Islander communities. These documents were agreed as part of the 2019 Agreement; and
- directorate implementation plans: internal documents that identify specific actions for each directorate to implement the 2019 Agreement. These are agreed directly between each directorate and a representative of the Elected Body. These implementation plans are not publicly available.

2.75 There are gaps in directorate accountabilities to implement priority actions under the 2019 Agreement. Not all priority actions from the focus area action plans have been appropriately addressed in directorate implementation plans; the Audit Office considers that 24 priority actions outlined in Phase One focus area action plans were not appropriately recognised in directorate implementation plans. Eleven of these 24 were whole-of-government actions that no directorate recognised in their implementation plan. The remaining 13 of 24 priority actions that were unassigned were the responsibility of at least one directorate. Some directorates were more effective than others in recognising their individual responsibilities in their implementation plans.

2.76 Directorates have since implemented clearer accountabilities for implementing each focus area action plan as part of Phase Two of the 2019 Agreement. If these accountabilities are effectively acquitted, this is expected to assist with better quality implementation and reporting of priority actions under the 2019 Agreement.

RECOMMENDATION 3 ACCOUNTABILITY AND TRANSPARENCY FOR DIRECTORATE IMPLEMENTATION PLANS

The ACT Public Service Strategic Board should:

- a) publish all directorate implementation plans on the 2019 Agreement website; and
- b) implement a process to provide assurance to the signatories to the 2019 Agreement that the directorate implementation plans have allocated all responsibilities under the Phase Two focus area action plans.

3 SUPPORT FOR SELF-DETERMINATION

- 3.1 This chapter discusses the effectiveness of arrangements to support the self-determination of Aboriginal and Torres Strait Islander communities in the implementation of the 2019 Agreement. It also discusses the role of the Aboriginal and Torres Strait Islander Elected Body in supporting self-determination.

Summary

Conclusion

Directorates are not yet able to demonstrate their ability to support self-determination for Aboriginal and Torres Strait Islander communities. While most directorates were able to show how they consulted with, and took account of the views of, local Aboriginal and Torres Strait Islander communities, their activities were on a small-scale and had only recently commenced. While this shows some positive signs, the results of these efforts are not presently understood or observed broadly across local Aboriginal and Torres Strait Islander communities. Significant and sustained effort by ACT Government directorates, working closely with communities and their leaders, will be necessary to change this.

A key support for self-determination is the Aboriginal and Torres Strait Islander Elected Body, through its accountability, oversight and consultation roles. A key risk to the effectiveness of the Elected Body is that it comprises seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to:

- working with directorates and local Aboriginal and Torres Strait Islander communities; and
- undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.

Key findings

Paragraph

Self-determination

A review of directorates' consultation approach with Aboriginal and Torres Strait Islander communities for the implementation of priority actions from the 2019 Agreement shows: 3.59

- there is a need for including service users more broadly in consultation activities to support self-determination across all directorates;
- many of the directorates' consultation activities were focussed in size and scope and had been commenced within the term of the 2019

Agreement. The Audit Office heard from community organisations that small consultation groups tended to promote cultural safety and that the diversity of community members and their views will mean there is no single community view. There is, however, a risk that only those members consulted will be aware of these activities in the absence of effective communication about the effects of this work. The relatively recent status of these consultation activities also means it will take some time to evidence meaningful results and broader cultural change (which will also require significant ongoing effort and resourcing); and

- directorates prioritise consulting with members of the Elected Body. This is appropriate to the extent that the Elected Body is the representative body that executed the 2019 Agreement. Members of the Elected Body were also able to identify more instances where ACT Government agencies had taken into account the views of the community than community organisations. However, this does not substitute the need for broad, regular and targeted consultation with Aboriginal and Torres Strait Islander service users. The impact of the COVID pandemic on government operations and the local Aboriginal and Torres Strait Islander community is noted as a limiting factor on this activity during 2020 and 2021.

Most directorates have been able to demonstrate consultation activity that has taken into account the views of local Aboriginal and Torres Strait Islander communities and ultimately demonstrate support for self-determination. However, much of this consultation activity has been on a small scale and undertaken on a comparatively recent basis, since the current term of the 2019 Agreement. The consultation activity may indicate improving practices across directorates, but views heard from local community organisations suggests there still needs to be significant and continuing effort to demonstrate cultural change across directorates with respect to consultation and support for self-determination.

3.63

The Elected Body

The Aboriginal and Torres Strait Islander Elected Body is the elected Aboriginal and Torres Strait Islander representative body in the ACT. It has significant and diverse responsibilities by virtue of section 8 of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. There are risks that may limit the effectiveness of the Elected Body to support local Aboriginal and Torres Strait Islander communities and the right to self-determination. A key risk is that the Elected Body membership consists of seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to:

3.70

- working with directorates and local Aboriginal and Torres Strait Islander communities; and
- undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.

Other risks in the Elected Body's ability to support Aboriginal and Torres Strait Islander communities include that there is low voting participation from the eligible population and there is a high proportion of current or former government employees serving on the Elected Body. Improved diversity and participation in elections for the Elected Body could better support self-determination. 3.71

Self-determination

3.2 The principle of self-determination is ultimately drawn from the *International Covenant on Civil and Political Rights*. Article 1 of the *International Covenant on Civil and Political Rights* reads as follows:

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

3.3 Australia became a signatory to the Covenant in 1972 and ratified the Covenant in 1980.

3.4 The guiding principle of the *Aboriginal and Torres Strait Islander Agreement 2019-2028* is self-determination:

The ACT Government and community partners are committed to self-determination as the guiding principle in the delivery of programs and services and are working in partnership with Aboriginal and Torres Strait Islander communities to address matters that are important to them.

...

The Agreement recognises Aboriginal and Torres Strait Islander peoples as Australia's first people. First people have the right to self-determination which is an ongoing process of choice to ensure that Aboriginal and Torres Strait Islander communities are able to meet their social, cultural and economic needs.

Consultation on implementation

3.5 The Audit Office examined a selection of priority actions, covering each focus area action plan and directorate, to understand how the principle of self-determination had been applied during implementation. This selection is outlined in Table 3-1.

Table 3-1 Selection of priority actions examined for evidence of support for self-determination by directorates

Focus Area Action Plan	Directorate	Priority Action
Children and Young People	Community Services Directorate	Implementation of Our Booris, Our Way recommendations (early support services)
Community Leadership	Transport Canberra and City Services Directorate	Partnering with Ngunnawal people as Traditional Custodians by recognising their expertise and valuing their traditional knowledge in sustainable management of Country.
Connecting the Community	Chief Minister, Treasury and Economic Development Directorate (artsACT)	Aboriginal and Torres Strait Islander Arts Consultation Action Plan
Cultural Integrity	Environment, Planning and Sustainable Development Directorate	Legislation is reviewed and updated to provide Ngunnawal access to natural resources. - Caring for Country Council
Economic Participation	Chief Minister, Treasury and Economic Development Directorate	Link Aboriginal and Torres Strait Islander businesses and entrepreneurs to programs and activities that support existing and new businesses.
Health and Wellbeing	ACT Health Directorate	Work to enhance the Ngunnawal Bush Healing Farm as a culturally based healing program ^a
Housing	Community Services Directorate	Establish a community participation approach to understand housing needs and requirements in the Aboriginal and Torres Strait Islander community
Inclusion Community	Canberra Health Services	Review services to create and maintain a welcoming environment, in partnership with Aboriginal and Torres Strait Islander communities
Justice	Justice and Community Safety Directorate	Evaluate existing Justice Reinvestment programs to support Aboriginal and Torres Strait Islander people in the criminal justice system - Justice Caucus
Life Long Learning	Education Directorate	Develop mechanisms to support all Aboriginal and Torres Strait Islander children to be enrolled and attending regularly in early childhood education under the universal access to preschool for three-year-olds

Source: Audit Office, based on 2019 Agreement

- 3.6 To determine if directorates were appropriately supporting self-determination, the Audit Office attempted to use evidence of directorates' consultation and implementation activities to answer the following questions:
- Did directorates engage with their service users?
 - Did directorates ask appropriate questions of their service users to facilitate self-determination?
 - Did directorates implement what they heard from the community?
- 3.7 Notwithstanding the role of the Aboriginal and Torres Strait Islander Elected Body to 'foster community discussion' and 'conduct regular consultation with Aboriginal and Torres Strait Islander people living in the ACT', as per section 8 of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*, directorates have a responsibility to consult and take into account the views of Aboriginal and Torres Strait Islander people in delivering services. This principle is based on their responsibility to support the cultural rights of Aboriginal and Torres Strait Islander people under section 27 of the *ACT Human Rights Act 2004*.

Children and Young People

- 3.8 For the Children and Young People focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Community Services Directorate for the following priority action:
- Continue to support the *Our Booris, Our Way* review of the experiences of Aboriginal and Torres Strait Islander children and families in the ACT child protection system, and implement initiatives that address the *Our Booris, Our Way* review recommendations.
- 3.9 The *Our Booris, Our Way* report contained 28 recommendations that related to many different aspects of service delivery for Aboriginal and Torres Strait Islander families and children. One consultation activity was selected for recommendations that related to giving families early support before entering the child and youth protection system (Recommendation 9).
- 3.10 A community consultation activity that the Community Services Directorate has implemented to contribute to this priority action is the Aboriginal and Torres Strait Islander Co-design Network. The Community Services Directorate engaged an Aboriginal and Torres Strait Islander consultant to assist with the establishment of the network and determine the features it needed to support self-determination for Aboriginal and Torres Strait Islander communities.
- 3.11 The co-design network is a small group of Aboriginal and Torres Strait Islander community members with lived experience of human services, including the child and youth protection system, who work in partnership with Community Services Directorate to improve policy, practice and services. This includes elders, carers and Aboriginal men. The objectives of the co-design network are:

1. To actively support self-determination of Aboriginal and Torres Strait Islander people as experts in their own lives with the capacity to develop and codesign solutions to matters of importance to them
 2. To increase individual and community capacity to self-advocate, be part of decision making and achieve positive life outcomes
 3. To build long term relationships and collaborative processes to improve systems, policy and practice impacting Aboriginal and Torres Strait Islander people in the ACT
- 3.12 The co-design network is ongoing and meets regularly. It has agreed ways of working that have been developed by its members collaboratively with Community Services Directorate staff to build relationships based on trust and mutual respect. This approach supports the wellbeing of members because the design is trauma informed and culturally safe. It also recognises and values lived experience with human services for participating in the co-design network.
- 3.13 The Aboriginal and Torres Strait Islander Co-design Network has given feedback to ACT Government agencies on a variety of aspects of ACT Government service delivery in justice, child and youth protection and health. Members of the co-design network determine what services they will give feedback on. Guidance is given by the co-design network as part of this process on how to seek advice from members in ways that are culturally sensitive.
- 3.14 The co-design network is small and early in its journey, but has been implemented in a way that supports self-determination.

Community Leadership

- 3.15 For the Community Leadership focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Transport Canberra and City Services Directorate for the following priority action:
- Partnering with Ngunnawal people as Traditional Custodians by recognising their expertise and valuing their traditional knowledge in sustainable management of Country.
- 3.16 The Transport Canberra and City Services Directorate was not able to demonstrate a structured approach to the achievement of this commitment. The directorate could not demonstrate how it had engaged with Aboriginal and Torres Strait Islander communities to determine what services they wish to work together on.
- 3.17 Nevertheless, the Transport Canberra and City Services Directorate cited three examples of partnerships with traditional custodians:
- language classes and on-country tours;
 - consultations on the management of Yarralumla Nursery; and
 - consultation on the management of the City Presentation business unit.
- 3.18 Language classes do not directly relate to the management of Country. On-country tours have the potential to assist in the meeting of the commitment, but the documentation that was supplied did not establish if this had been realised.

- 3.19 While consultation activities with Aboriginal and Torres Strait Islander communities on the management of Yarralumla Nursery present the opportunity to support self-determination, the directorate was unable to show sufficient information on the implementation of this activity to determine if this had been achieved. The City Presentation consultations were used to identify priorities for Aboriginal and Torres Strait Islander communities. A project is underway to incorporate the findings of this consultation into the directorate's future work plan. Implementation of the project's findings has not been assessed by the ACT Audit Office.

Connecting the Community

- 3.20 For the Connecting the Community focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by artsACT for the following priority action:

artsACT will implement the ACT Aboriginal and Torres Strait Islander Arts Consultation Action Plan, including ongoing support of the Aboriginal and Torres Strait Islander Arts Network and engagement of Aboriginal and Torres Strait Islander Arts Officer in artsACT.

- 3.21 In 2017, artsACT engaged with ACT Aboriginal and Torres Strait Islander communities with a view to using the consultation to inform future work by artsACT with respect to the community. This resulted in the publication of the *Aboriginal and Torres Strait Islander Arts Consultation Action Plan*.

- 3.22 The Aboriginal and Torres Strait Islander Arts Consultation Action Plan outlined an intention to establish an identified Aboriginal and Torres Strait Islander officer within artsACT and an ACT Aboriginal and Torres Strait Islander arts network. The ACT Aboriginal and Torres Strait Islander Arts Engagement Network was established in 2017. There are currently seven members of the network with two members sitting on the Minister's Creative Council. artsACT advised it receives advice from the network on a range of cultural arts matters. The role of Assistant Director, Aboriginal and Torres Strait Islander Arts Engagement, an identified position, was permanently filled in December 2021. This position acts as secretariat to the network. Evidence was given from a meeting of the network in March 2022 which showed that artsACT sought views from the network's members in a culturally appropriate way. artsACT has since developed a new arts policy (*Canberra: Australia's Arts Capital – Arts, Culture and Creative Policy 2022-2026*) and an associated action plan which were released in July 2022, which includes a set of commitments to support self-determination. These commitments are subsequent to the Phase One Connecting the Community focus area action plan.

Cultural Integrity

- 3.23 For the Cultural Integrity focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Environment, Planning and Sustainable Development Directorate for the following priority action:

Legislation is reviewed and updated to provide Ngunnawal access to natural resources.

- 3.24 During the review of the *Fisheries Act 2000* it was recognised that the Fisheries Act did not include cultural fishing access for Aboriginal people. When consulting with the Ngunnawal

community on proposed changes to the legislation, it was identified that access to cultural resources more broadly, not only fishing, was important to the community. A new section of the *Nature Conservation Act 2014* was then developed to allow the Conservator to prepare a cultural resource management plan in consultation with Ngunnawal traditional custodians.

- 3.25 Once complete, the cultural resource management plan is expected to enable access to land and resources for cultural use. This plan is expected to support the Ngunnawal traditional custodians to determine their needs for cultural resource uses and collection and identify the governance around the collection of resources and protocols for the management of compliance.
- 3.26 The Environment, Planning and Sustainable Development Directorate developed a stakeholder engagement plan that outlines engagement with the Ngunnawal community, a range of community groups and broader ACT Aboriginal and Torres Strait Islander communities. Documentation associated with a range of consultation sessions was provided. The directorate was able to provide evidence of its consultations with Aboriginal and Torres Strait Islander community representatives.
- 3.27 The development of the cultural resource management plan is currently underway, and it is not currently possible for the Audit Office to determine whether and how the directorate had taken account of the community's views in developing the plan. However, the priority action was included in the 2019 Agreement as a result of listening to the needs of the Aboriginal and Torres Strait Islander communities in accessing natural resources, which provides some evidence of the directorate's commitment to supporting self-determination.
- 3.28 In response to the draft proposed report, the Environment, Planning and Sustainable Development Directorate advised that it has committed to ensuring any of its work in land and environment management is culturally appropriate and respectful of the rights of traditional custodians. The directorate advised that self-determination for the traditional owners has been a prominent part of its work, and that actions under Phase Two of the Community Leadership focus area action plan will further increase opportunities for self-determination.

Economic Participation

- 3.29 For the Economic Participation focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Chief Minister, Treasury and Economic Development Directorate for the following priority action:

Link Aboriginal and Torres Strait Islander businesses and entrepreneurs to programs and activities that support existing and new businesses.

- 3.30 In August 2020 a review was conducted to identify the needs of the local Aboriginal and Torres Strait Islander business community. This review included 20 consultations with a variety of business and government representatives, as well as a member of the Elected Body.

- 3.31 After the review was completed, the Chief Minister, Treasury and Economic Development Directorate approached government and peak body organisations to discuss the recommendations of the review and to inform the development of the requirements for a service provider. The consultations appear to have been structured, small-scale discussions that included organisations with knowledge of the ACT Aboriginal and Torres Strait Islander business sector. These discussions were then used to develop a statement of requirements to approach the market and evidence the directorate's approach to take account of community views.

Health and Wellbeing

- 3.32 For the Health and Wellbeing focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Health Directorate for the following priority action:

Work to enhance the Ngunnawal Bush Healing Farm as a culturally based healing program.

- 3.33 The 2019 Agreement also includes a target written as:

Continued commitment to and development of the Ngunnawal Bush Health Healing Farm including undertaking a review to inform continued improvements of governance and program development.

- 3.34 The Ngunnawal Bush Healing Farm is an eight-bed drug and alcohol rehabilitation centre, which had been identified as a commitment as early as 2010-11. The Audit Office considered work by ACT Health Directorate associated with the farm since the implementation of the current 2019 Agreement. During this period a Healing Framework was developed and a review of the Ngunnawal Bush Healing Farm was conducted.

- 3.35 Consultations were undertaken for developing the Healing Framework. The Healing Framework contains a series of principles for the operation of the Ngunnawal Bush Healing Farm, such as recognition of Ngunnawal culture and the impact of inter-generational trauma, as well as principles of cultural safety in delivering services. The consultations were appropriate and included a range of community members and organisations. Consultation outcomes have not been clearly documented by the ACT Health Directorate, and it is not clear to what extent groups other than the United Ngunnawal Elders Council were considered or consulted on the Healing Framework.

- 3.36 The review of the Ngunnawal Bush Healing Farm, as described in the 2019 Agreement, was not effectively completed. The review that was published was restricted in scope to the Healing Framework rather than a more comprehensive review of the farm that included the views of service users. The Health Directorate completed an internal program evaluation in 2021 which included staff and service users from the Ngunnawal Bush Healing Farm during two programs at the farm during 2020. This internal evaluation made recommendations about the operation of the healing farm, including program delivery, client intake and staffing arrangements. The Health Directorate advised this evaluation was used to improve future programs at the Ngunnawal Bush Healing Farm.

Housing

3.37 For the Housing focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Community Services Directorate for the following priority action:

Establish a community participation approach to understand housing needs and requirements in the Aboriginal and Torres Strait Islander community.

3.38 The priority action sits within the context of the broader ACT Housing Strategy. The ACT Housing Strategy, launched in October 2018, 'provides a roadmap for housing in the ACT'. The strategy notes that there are over 2000 people who identified as Aboriginal and/or Torres Strait Islander accessing community housing in the ACT. This represents a significant proportion of the ACT Aboriginal and Torres Strait Islander population.

3.39 The Community Services Directorate undertook public consultation as part of the development of the ACT Housing Strategy in 2018. A report was produced to record public feedback on the strategy. The report notes specific engagement with 12 members of Aboriginal and Torres Strait Islander communities, across seven organisations. It is not clear from the report whether any Aboriginal and Torres Strait Islander community housing tenants were consulted, with only 16 tenants in total across all ACT Housing tenancies consulted.

3.40 The 2019 Agreement was agreed one year after the ACT Housing Strategy. The priority action was included to develop a community participation approach to understand the housing needs of Aboriginal and Torres Strait Islander communities.

3.41 Housing ACT engaged an Aboriginal firm to undertake the consultations to document the community participation approach. A project plan was prepared in December 2021, with an indicative completion date of a draft community participation approach scheduled for preparation by April 2022.

3.42 An engagement plan dated 8 February 2022 was prepared, which identified that the consultations would take place in February and March. Another engagement plan dated 20 June 2022 was also prepared, which identified consultations would take place in July 2022. Consultations were still ongoing in September 2022.

3.43 The engagement plans that were developed limit the risk to government from inappropriate consultations as they were prepared by subject matter experts. They outline the timing, nature and content of the consultations.

3.44 While it appears this consultation has been planned for appropriately, it is not clear why the development of the ACT Housing Strategy in 2018 did not include a specific approach to consult with Aboriginal and Torres Strait Islander communities. Despite this, Housing ACT advised in its response to the final proposed report that it did undertake specific consultations with Aboriginal and Torres Strait Islander providers.

Inclusive Community

- 3.45 For the Inclusive Community focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by Canberra Health Services for the following priority action:

Review services to create and maintain a welcoming environment, in partnership with Aboriginal and Torres Strait Islander communities.

- 3.46 The main Aboriginal and Torres Strait Islander consultative mechanism Canberra Health Services uses is a community reference group that was established in 2020. The community reference group comprises seven Aboriginal and Torres Strait Islander community representatives from the local and South Coast NSW region. Canberra Health Services has developed a statement of commitment, which outlines how the community reference group will be consulted. It is prominently displayed in the foyer of The Canberra Hospital in an effort to demonstrate Canberra Health Services' commitment to the public.

- 3.47 Canberra Health Services has installed 'acknowledgement of country artwork' created by Aboriginal and Torres Strait Islander artists at the entrance of all new or refurbished health facilities. The effectiveness of this is supported by remarks made by the community reference group on CHS's website, and the use of Aboriginal and Torres Strait Islander artists ensures that the work is culturally appropriate.

- 3.48 The Aboriginal and Torres Strait Islander community reference group and the directorate worked together to develop the '*Together, Forward*' strategy. The strategy aims to improve access to services and health outcomes of Aboriginal and Torres Strait Islander people in the ACT and surrounding region. The 2019 Agreement commitment of making spaces more welcoming to Aboriginal and Torres Strait Islander people is reflected in this strategy.

- 3.49 Canberra Health Services cited the development of the Northside Opioid Treatment Service as an example of a project that involved the consultation of Aboriginal and Torres Strait Islander people. It is apparent that some Aboriginal and Torres Strait Islander organisations were consulted, and an Aboriginal and Torres Strait Islander firm was engaged for the project. However, it is not clear from the documentation how the feedback from the Aboriginal and Torres Strait Islander organisations was used to ensure the cultural safety of the facility.

Justice

- 3.50 For the Justice focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Justice and Community Safety Directorate for the following priority action:

Evaluate existing Justice Reinvestment programs to support Aboriginal and Torres Strait Islander people in the criminal justice system.

- 3.51 This commitment relates to multiple justice reinvestment programs that are currently being evaluated under this commitment. The Audit Office selected one relating to improving bail

compliance and reducing the number of Aboriginal and Torres Strait Islander people incarcerated because of non-compliance with their bail or parole conditions. The Justice and Community Safety Directorate is in the process of developing a mobile phone app to help Aboriginal and Torres Strait Islander people comply with their bail requirements, and a feasibility project was undertaken with the Australian National University to determine how it could be progressed. The specific requirements of the feasibility project were to:

- review the use of apps in other jurisdictions to identify what evidence-based features would support compliance; and
- interview stakeholders to inform app development.

3.52 Notably, the project requirements were not scoped to answer the question ‘do Aboriginal and Torres Strait Islander people want an app to assist with bail compliance’ to support self-determination for this population. In undertaking the project, the Australian National University tried to answer this question, raising it with Aboriginal and Torres Strait Islander interviewees. Interviewees consisted of Aboriginal and Torres Strait Islander peak bodies, representative groups and people who have had past interactions with the justice system. These stakeholders were asked whether they supported the use of an app to support bail and parole compliance. All peak bodies and representative groups supported the project, and all but one of twelve Aboriginal and Torres Strait Islander participants who had past interactions with the justice system voiced their support. However, none of the interviewees were potential future service users; that is, incarcerated people, whose bail and/or parole has been cancelled.

Life Long Learning

3.53 For the Life Long Learning focus area action plan of the 2019 Agreement, the Audit Office reviewed the consultations undertaken by the Education Directorate for the following priority action:

Develop mechanisms to support all Aboriginal and Torres Strait Islander children to be enrolled and attending regularly in early childhood education under the universal access to preschool for three-year-olds.

3.54 The ACT Government commitment to universal three-year-old pre-school was established after the 2017 *Lifting Our Game* report, which showed the benefits of early childhood education in improving student outcomes. The commitment was confirmed in the Education Directorate’s *Set up for Success: An early childhood strategy for the ACT (2020)*. The priority action under the 2019 Agreement extends this to supporting Aboriginal and Torres Strait Islander people’s access to the program. One way that Aboriginal and Torres Strait Islander children may access the scheme is through a Koori Preschool.

3.55 While developing the *Set up for Success: An early childhood strategy for the ACT (2020)* the Education Directorate consulted with the public and three Aboriginal and Torres Strait Islander organisations or groups:

- Winnunga Nimmityjah Aboriginal Health Service;

- the Wanniasa and Kingsford Smith Koori Preschools; and
- the Koori play group at the Tuggeranong Child and Family Centre.

3.56 Service users, including parents and children, were consulted. The consultation report notes some specific feedback regarding supporting Aboriginal and Torres Strait Islander access to education. This included:

- areas of focus for educators to enable cultural awareness and an understanding of the diverse needs of children;
- a focus on maintaining a meaningful presence in the community; and
- building trust with the community.

3.57 The final *Set up for Success: An early childhood strategy for the ACT (2020)* includes a commitment to co-design Koori preschools with Aboriginal and Torres Strait Islander communities. The Education Directorate's *Annual Report 2020-21* reported that this project commenced in August 2021. The Education Directorate advised consultation for the co-design took place between September 2020 to October 2021 and engaged 170 stakeholders. The project has resulted in designing the following Koori Pre Vision and Cultural Safety Commitments:

The Koori Pre Vision is "A high quality, high expectation & holistic program for Aboriginal and Torres Strait Islander children, grounded in Aboriginal and Torres Strait Islander cultures, knowledges, and values, that recognises that children and their families are strong, proud and deadly."

The Cultural Safety Commitments are:

- Mob – Holistic place-based responses to the strengths, expectations and aspirations of Aboriginal and Torres Strait Islander children, families and communities
- Place – Authentic and connected spaces that reflect Aboriginal and Torres Strait Islander cultures and promote belonging, identity, family knowledge and connection with community and Country
- People – Good fit, culturally-aware and culturally-responsive, appropriately qualified staff selected and recruited to positions.
- Way – Transformation through working together the Koori Pre way. Working and walking together.

3.58 Further publications are being developed, which include Koori Pre Cultural Safety Framework, Koori Pre Curriculum and About Koori Pre children's book. It should be noted that universal access to three-year-old preschool has not yet been implemented, so the priority action has not been fully implemented and further consultation with Aboriginal and Torres Strait Islander communities will be necessary to support self-determination for this commitment.

Themes from consultation activities

3.59 A review of directorates' consultation approach with Aboriginal and Torres Strait Islander communities for the implementation of priority actions from the 2019 Agreement shows:

- there is a need for including service users more broadly in consultation activities to support self-determination across all directorates;
- many of the directorates' consultation activities were focussed in size and scope and had been commenced within the term of the 2019 Agreement. The Audit Office heard from community organisations that small consultation groups tended to promote cultural safety and that the diversity of community members and their views will mean there is no single community view. There is, however, a risk that only those members consulted will be aware of these activities in the absence of effective communication about the effects of this work. The relatively recent status of these consultation activities also means it will take some time to evidence meaningful results and broader cultural change (which will also require significant ongoing effort and resourcing); and
- directorates prioritise consulting with members of the Elected Body. This is appropriate to the extent that the Elected Body is the representative body that executed the 2019 Agreement. Members of the Elected Body were also able to identify more instances where ACT Government agencies had taken into account the views of the community than community organisations. However, this does not substitute the need for broad, regular and targeted consultation with Aboriginal and Torres Strait Islander service users. The impact of the COVID pandemic on government operations and the local Aboriginal and Torres Strait Islander community is noted as a limiting factor on this activity during 2020 and 2021.

Views from Aboriginal and Torres Strait Islander community organisations on how ACT Government supported self-determination

3.60 The Audit Office engaged Curijo to lead conversations with Aboriginal and Torres Strait Islander community organisations to consider how the ACT Government was progressing in its work to support self-determination. Four questions were asked of these organisations in consultations:

- Are services culturally safe and appropriate?
- Does ACT Government consider Aboriginal and Torres Strait Islander views?
- Does ACT Government support the community's right to self-determination?
- What are the biggest areas for improvement?

3.61 The results of these consultations are summarised at paragraph 1.44. The views of community organisations relating to the ACT Government's support of self-determination were broadly that there is significant room for improvement in this area. Key themes raised

by Aboriginal and Torres Strait Islander community organisations with respect to what was needed for self-determination were:

- more information sharing by directorates (either data about the community or progress in implementing the 2019 Agreement);
- more awareness of the 2019 Agreement and what commitments the ACT Government had made to the community;
- more independence for the Elected Body and more understanding of its role within the community;
- more understanding in the ACT Government of what is meant by self-determination;
- there was no relationship directly between the community and ACT Government and there was a lack of staff with lived experience of the community;
- there was an over-reliance within ACT Government on using e-learning to demonstrate cultural competency;
- more timely decision-making; and
- more recognition of the burden of volunteer and unfunded work placed upon Aboriginal and Torres Strait Islander corporations that support the local community.

3.62 Specific feedback was also received from the United Ngunnawal Elders Council in response to the draft proposed report. The Co-Chairs of the United Ngunnawal Elders Council advised there has been a breakdown in communication and consultation between the Office for Aboriginal and Torres Strait Islander Affairs, the Aboriginal and Torres Strait Islander Elected Body and the Council when consulting the ACT Government on Aboriginal and Torres Strait Islander issues and engagement. The Co-Chairs advised the council is not being engaged, included and consulted as part of the 2019 Agreement.

3.63 Most directorates have been able to demonstrate consultation activity that has taken into account the views of local Aboriginal and Torres Strait Islander communities and ultimately demonstrate support for self-determination. However, much of this consultation activity has been on a small scale and undertaken on a comparatively recent basis, since the current term of the 2019 Agreement. The consultation activity may indicate improving practices across directorates, but views heard from local community organisations suggests there still needs to be significant and continuing effort to demonstrate cultural change across directorates with respect to consultation and support for self-determination.

The Elected Body

3.64 The Aboriginal and Torres Strait Islander Elected Body is the elected Aboriginal and Torres Strait Islander representative body in the ACT. It has seven members that have a term of three years that are elected to represent the interests and requests of local Aboriginal and Torres Strait Islander communities. Each member holds office on a part-time basis. The Elected Body is established under the *Aboriginal and Torres Strait Islander Elected Body Act*

2008. The functions of the Aboriginal and Torres Strait Islander Elected Body are outlined in section 8 of the *Aboriginal and Torres Strait Islander Elected Body Act 2008* as:

- (a) to receive, and pass on to the Minister and any other Minister responsible for the matter that is the subject of concern, the views of Aboriginal and Torres Strait Islander people living in the ACT on issues of concern to them;
- (b) when asked by the Minister, to give the Minister information or advice about the views of Aboriginal and Torres Strait Islander people living in the ACT on matters stated by the Minister;
- (c) to represent, including nationally, Aboriginal and Torres Strait Islander people living in the ACT and to act as an advocate on systemic or whole-of-government issues affecting their interests;
- (d) to foster community discussion about—
 - (i) issues of concern to Aboriginal and Torres Strait Islander people living in the ACT; and
 - (ii) the functions of ATSIEB; and
 - (iii) this Act;
- (e) to conduct regular consultation with Aboriginal and Torres Strait Islander people living in the ACT and report the outcomes of that consultation to the Minister and any other Minister responsible for the matter that is the subject of the consultation;
- (f) to make recommendations to government agencies about research proposals that further the objects of this Act;
- (g) to monitor and report on the effectiveness and accessibility of programs and services conducted by government agencies for Aboriginal and Torres Strait Islander people living in the ACT;
- (h) to monitor and report on the accessibility by Aboriginal and Torres Strait Islander people living in the ACT to programs and services conducted by government agencies for the general public;
- (i) to provide advice to government agencies on appropriate representation of Aboriginal and Torres Strait Islander people living in the ACT on consultative bodies established by government agencies;
- (j) when asked by a government agency or another person, to recommend any reasonable action it considers necessary to protect Aboriginal and Torres Strait Islander cultural material or information considered sacred or significant by Aboriginal and Torres Strait Islander people living in the ACT;
- (k) any other function given to ATSIEB by the Minister;
- (l) any other function given to ATSIEB under this Act or another territory law.

3.65 The Elected Body is also the ACT's sole representative on the Coalition of the Peaks. The Coalition of the Peaks is a collective of over 80 Aboriginal and Torres Strait Islander community-controlled peak and member organisations across Australia. The Coalition of the Peaks are signatories to the National Agreement on Closing the Gap. According to the Coalition's website, this is an agreement 'between all Australian governments and the Coalition of the Peaks to implement a series of four priority reforms to transform the way governments work with and for Aboriginal and Torres Strait Islander people, organisations and communities to improve outcomes'. As a member organisation of the Coalition of the

Peaks, the Elected Body is expected to ‘regularly engage [its] membership base to ensure [the Elected Body] reflects their views on issues of importance to them’.

- 3.66 Access to members of the Elected Body in supporting community consultation was raised as an issue by Aboriginal and Torres Strait Islander stakeholders. Community organisations reflected a low level of understanding and engagement with the Elected Body. Stakeholders reflected they wanted more connection with the Elected Body, and the ability to easily contact the Elected Body to have them participating and involved in community activities. Stakeholders did not believe the Elected Body was sufficiently independent of government.
- 3.67 Directorates also placed significant weight on the role of the Elected Body in their efforts to support self-determination and demonstrate their performance against the 2019 Agreement through regular meetings with members and co-chairing key governance committees, as outlined in Chapter 2 of this report.
- 3.68 With this in mind, the Audit Office noted some risks that may limit the effectiveness of the Elected Body to support local Aboriginal and Torres Strait Islander communities and the right to self-determination:
- the Elected Body membership consists of seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to:
 - working with directorates and local Aboriginal and Torres Strait Islander communities; and
 - undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.
 - at its 2021 election, 267 votes were received from an eligible voting population that the Audit Office estimates to be approximately 6,000 people; and
 - most members are current or former ACT Public Service or Australian Public Service employees. Aboriginal and Torres Strait Islander communities’ distrust of government, which was evident in consultations, could be a limiting force on the body’s ability to work with communities.
- 3.69 The Elected Body has also not held formal community consultation events in recent years. The impact of the COVID-19 pandemic is noted in this regard. Local Aboriginal and Torres Strait Islander community organisations advised the Audit Office that they desired better access to the Elected Body’s members. The current Elected Body did not publish its consultation plan on its website until December 2022.
- 3.70 The Aboriginal and Torres Strait Islander Elected Body is the elected Aboriginal and Torres Strait Islander representative body in the ACT. It has significant and diverse responsibilities by virtue of section 8 of the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. There are risks that may limit the effectiveness of the Elected Body to support local Aboriginal and Torres Strait Islander communities and the right to self-determination. A key

risk is that the Elected Body membership consists of seven part-time members, who fulfill their Elected Body responsibilities in addition to other responsibilities and commitments. The small amount of time available to each member carries a significant expectation with respect to:

- working with directorates and local Aboriginal and Torres Strait Islander communities; and
- undertaking its accountability and transparency functions in holding directorates to account for delivery of the Agreement.

3.71 Other risks in the Elected Body's ability to support Aboriginal and Torres Strait Islander communities include that there is low voting participation from the eligible population and there is a high proportion of current or former government employees serving on the Elected Body. Improved diversity and participation in elections for the Elected Body could better support self-determination.

RECOMMENDATION 4 THE ELECTED BODY

The Community Services Directorate and Chief Minister, Treasury and Economic Development Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Sub-committee of the Strategic Board and in consultation with the Aboriginal and Torres Strait Islander Elected Body, strengthen the Elected Body's ability to fulfil its responsibilities under the *Aboriginal and Torres Strait Islander Elected Body Act 2008*. Consideration should be given to:

- a) resourcing the Elected Body to be able to fulfil its accountability, consultation and oversight roles. The Elected Body should receive support to independently determine the necessary resourcing that is needed to complete these roles and have them considered as part of the ACT Government budget process; and
- b) supporting improved community participation in elections for the Elected Body.

4 PERFORMANCE MANAGEMENT AND MONITORING

- 4.1 This chapter considers performance reporting arrangements for the implementation of the 2019 Agreement. It considers:
- performance information produced by directorates;
 - the communication of performance information; and
 - the use of performance information to facilitate effective decision making.

Summary

Conclusion

Performance management and monitoring arrangements for the implementation of the 2019 Agreement have not been effective.

While performance reporting has been conducted over the life of the 2019 Agreement, it has not provided a structured and faithful representation of progress in implementing the 2019 Agreement. Outputs-based reporting has not been conducted routinely and has not consistently and faithfully represented directorate progress implementing the 2019 Agreement. Outcomes-based reporting has not included a line of sight to activities undertaken under the 2019 Agreement.

Reporting does not enable Aboriginal and Torres Strait Islander communities to hold the government to account for the implementation of the 2019 Agreement as it is not materially complete or faithfully presented. As the differences between the directorate implementation plans and the focus area action plans have not been disclosed publicly, communities cannot know of all commitments included in the 2019 Agreement. This, taken together with the lack of structure and neutrality to external reporting, prevents stakeholders from understanding the status of the implementation of the 2019 Agreement.

Key findings

Paragraph

Whole-of-government performance reporting

The Inter-Directorate committee is responsible for producing six-monthly progress reports of directorate performance on the implementation of the 2019 Agreement. In the four years since the 2019 Agreement commenced, the committee has produced two reports: one in November 2019 and another in September 2020. No other progress reports have been produced. The reports were structured to

4.14

demonstrate how each directorate had progressed in implementing its commitments and were predominantly output-focused, with little structured analysis of directorate performance in achieving intended outcomes. It was difficult to determine directorate progress between the two reports as the reports changed from reporting against directorate implementation plans to a mix of directorate implementation plans, Outcomes Framework measures and focus area action plan priority actions. Nevertheless, the reports did outline progress against the priority actions at a point in time under the 2019 Agreement. No progress reports have been produced since September 2020 and no alternative reports have been produced that monitor the completion of the priority actions under the 2019 Agreement.

The *Annual Report on the Aboriginal and Torres Strait Islander Agreement 2019-2028* was tabled in the Legislative Assembly in April 2020. There was a lack of structure to the report and it was not possible to accurately determine which parts of the 2019 Agreement had (or had not) been progressed. The report predominantly consisted of unstructured reporting of highlights, which does not provide a faithful representation of progress that has (or has not) been made. There was also insufficient information provided in the report on the progress in developing and implementing the Outcomes Framework, which was intended to be used to promote accountability for implementation. Performance measures included in focus area action plans for Phase One of the 2019 Agreement, which were reported in the annual report, lacked specific targets or methods to assess performance. The annual report did not provide a clear assessment of directorate performance in implementing the 2019 Agreement. 4.25

The Outcomes Framework was finalised in April 2021. It describes how performance on the implementation of the 2019 Agreement will be tracked and sets out: the outcomes of both the 2019 Agreement and National Agreement; performance measures relevant to their achievement; and the baseline data against which to measure performance. The Outcomes Framework performance measures were generally improved from those shown in the annual report on directorates' progress that was tabled in the Legislative Assembly on 2 April 2020. 4.33

The impact statement is a publicly reported statement of performance that is prepared in line with the Outcomes Framework. The impact statement is updated as new information is available, but information has not been provided to date for four of ten 2019 Agreement focus area action plans. While the Outcomes Framework and impact statement give an effective picture of achievement of outcomes for communities, they do not effectively demonstrate the impact of the implementation of priority actions under the 2019 Agreement. Annually reported performance measures do continue to lack specific targets, however, with measures conveying only an increase or decrease in a stated metric. There is no direct line of sight between the implementation of each of the 2019 Agreement's priority actions and the measures in the impact statement. 4.34

Directorate performance reporting

Directorates' reporting of their activities to implement the 2019 Agreement, as shown in their 2020-21 annual reports, did not provide a faithful representation of their activities. Report users cannot effectively understand progress against the 2019 Agreement's focus area action plans and annual report commentary from directorates is not comprehensive. While some directorates gave commentary on activity, this was often through unstructured reporting of highlights and it did not consistently consider progress against incomplete priority actions. It is not possible for users to understand the impact of directorate activity to implement the 2019 Agreement. 4.45

Performance reporting

Features of sound performance reporting

- 4.2 Performance reporting demonstrates to decision-makers and stakeholders an agency's progress in achieving its objectives. It involves the provision of reliable information against relevant performance measures.
- 4.3 Performance measures should facilitate an unbiased assessment of performance over time. There are typically three types of performance measures:
- output measures – measures of how an agency uses its inputs to deliver amounts and types of activities;
 - efficiency measures – measures that describe the cost of outputs; and
 - effectiveness measures – measures that describe the impact of outputs.
- 4.4 Performance measures should be relevant to the agency's objectives. In some cases, a performance measure may not be available due to a lack of reliable data or a lack of attribution between an agency's responsibilities and the intended outcome of the activity. In these cases, developing a proxy measure of performance may be appropriate. A proxy measure is an indirect measure of the activity that is strongly correlated with the activity and enables a measurement of the effectiveness and efficiency of the activity. If a proxy measure is used, agencies should explain why a normal measure has not been used and why the proxy measure is suitable.
- 4.5 Performance measures facilitate performance reporting. Performance can be reported internally, e.g. to senior management, or externally, e.g. in annual reports. Such reporting, particularly when made public, is expected to present a faithful representation of an agency's performance. A faithful representation is materially:
- complete – it includes all information required to create an accurate understanding;
 - neutral – free from bias in the selection and presentation of information; and

- free from error.

4.6 The *ACT Performance and Accountability Framework* (February 2020) recognises the importance of credible performance reporting. It confirms:

Not all performance information reported can be good news. Credible performance reporting requires a balanced account of performance. Specifically, better practice performance reporting involves being open about the extent of, and reasons for, the results achieved – whether the results are above or below the expected level of performance. It also includes explaining what the agency plans to do in response, to the extent that the situation is within their control.⁹

4.7 Within the context of the 2019 Agreement, performance reporting is important to support self-determination. Users of performance reporting by ACT Government agencies should be able to understand what has been done to implement the 2019 Agreement’s priority actions under its focus area action plans. It also supports public accountability and transparency through mechanisms such as the Aboriginal and Torres Strait Islander Elected Body to understand the progress made to implement the 2019 Agreement. Consultations with Aboriginal and Torres Strait Islander community organisations identified a strong desire for accurate and reliable performance reporting that demonstrates directorate performance to implement the 2019 Agreement.

Whole-of-government performance reporting

4.8 Throughout Phase 1 of the 2019 Agreement a variety of whole-of-government reports on the implementation of the Agreement were produced. These are outlined in Table 4-1.

⁹ Chief Minister, Treasury and Economic Development Directorate, *Strengthening Performance and Accountability: A Framework for the ACT Government*, CMTEDD, ACT Government, 2020.

Table 4-1 Whole-of-government reporting on the 2019 Agreement

Report	Availability	Published	Publisher
Directorate Progress Report – 26/02/19 – 1/11/19	Internal	November 2019	Inter-Directorate committee
ACT Aboriginal and Torres Strait Islander Agreement 2019-2028 – 2019 Annual Report	External	April 2020	Office of Aboriginal and Torres Strait Islander Affairs
Six Month Progress Report from the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee	Internal	September 2020	Inter-Directorate committee
ACT Impact Statement 2021	External	2021	Office of Aboriginal and Torres Strait Islander Affairs
ACT Annual Report for National Closing the Gap Agreement 2022	External	September 2022	Office of Aboriginal and Torres Strait Islander Affairs

Source: ACT Audit Office analysis

Inter-Directorate committee progress reporting

4.9 The Inter-Directorate committee's terms of reference identified its responsibility to:

[Provide] six-monthly progress reports to the ACT Public Service Strategic Board Aboriginal and Torres Strait Islander Affairs Sub-Committee on the progress made against the *Aboriginal and Torres Strait Islander Agreement 2019-2028*.

4.10 The 2019 Agreement commenced in February 2019. This means that the Inter-Directorate committee should have prepared at least seven progress reports for the Strategic Board sub-committee. However, the Inter-Directorate committee has only produced two progress reports since the start of the 2019 Agreement:

- *Directorate Progress Report – 26/02/19 – 1/11/19* (November 2019); and
- *Six Month Progress Report from the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee* (September 2020).

4.11 All directorates reported their progress in implementing the 2019 Agreement in the November 2019 report. The Environment, Planning and Sustainable Development Directorate did not report its progress in the September 2020 report. Directorates ceased reporting progress through these reports after this time.

4.12 Both reports prepared by the Inter-Directorate committee were structured by directorate and information was then subsequently grouped by each focus area action plan. The November 2019 report included information on progress for actions in each directorate's own action plan. Where applicable, these actions were then mapped to indicators under the draft Outcomes Framework that the Inter-Directorate committee was preparing at the time of the report. Directorates reported a status of 'not started', 'in progress', 'complete'

or 'ongoing'. A status of 'ongoing' indicated that a systemic change had been embedded to a directorate's business activities.

- 4.13 For the September 2020 report, a mix of actions from each directorate's own action plan, priority actions from the 2019 Agreement's focus area action plans and measures from the draft Outcomes Framework were included. This approach differed from the November 2019 report and did not allow for a clear assessment of the progress made by directorates between the two reports. Both progress reports focused on outputs-oriented progress reporting, with no structured discussion of outcomes.
- 4.14 The Inter-Directorate committee is responsible for producing six-monthly progress reports of directorate performance on the implementation of the 2019 Agreement. In the four years since the 2019 Agreement commenced, the committee has produced two reports: one in November 2019 and another in September 2020. No other progress reports have been produced. The reports were structured to demonstrate how each directorate had progressed in implementing its commitments and were predominantly output-focused, with little structured analysis of directorate performance in achieving intended outcomes. It was difficult to determine directorate progress between the two reports as the reports changed from reporting against directorate implementation plans to a mix of directorate implementation plans, Outcomes Framework measures and focus area action plan priority actions. Nevertheless, the reports did outline progress against the priority actions at a point in time under the 2019 Agreement. No progress reports have been produced since September 2020 and no alternative reports have been produced that monitor the completion of the priority actions under the 2019 Agreement.

Annual Report on the Aboriginal and Torres Strait Islander Agreement 2019-2028

- 4.15 An annual report on directorates' progress in implementing the 2019 Agreement was tabled in the Legislative Assembly on 2 April 2020; the *Annual Report on the Aboriginal and Torres Strait Islander Agreement 2019-2028*.
- 4.16 The report was structured by focus area action plan, but primarily involved unstructured reporting of case studies and highlights, rather than a faithful representation of directorate progress in implementing the 2019 Agreement's priority actions.
- 4.17 The annual report provided a brief comment titled 'Progress on Outcomes Framework'. Rather than providing the Legislative Assembly with details of the progress in developing the Outcomes Framework, the report stated only that:
- The ACT Government is in the process of developing the Outcomes Framework, which is expected to be ready by Phase Two of implementation.
- 4.18 The report included a section that presented data on Aboriginal and Torres Strait Islander community indicators in lieu of the Outcomes Framework. The report identified that Phase One of the 2019 Agreement had been guided by targets from the Phase One focus area action plans. Progress against the ACT targets in each of the focus area action plans was reported as a 'targets snapshot' in the annual report. The snapshot contained a status

comment only on directorate performance in achieving the target. The status comments were given across a four-point scale:

- Under development
 - More work is required to achieve the target.
- In progress
 - Active steps are being taken to achieve the target. Some progress has been made to set the right foundation for change.
- Positive progress made
 - The ACT Government is seeing positive progress towards achieving the target.
- Achieved for reporting period
 - The target has been achieved for the reporting period, and work will be needed in future years to maintain success.

4.19 The ‘targets snapshot’ is the only section of the annual report where there was an indication of areas of the 2019 Agreement where progress has not been made. That said, the rating scale was not supported by commentary or analysis of progress made.

4.20 Taken together with the quality of the targets identified in the focus area action plans for Phase One of the 2019 Agreement, it is not possible for the community to clearly understand directorate performance in achieving these targets. The quality of the targets for Phase One of the 2019 Agreement is discussed in the next section (refer to paragraphs 4.22 to 4.4.23).

4.21 The annual report is the only document that publicly reports against all the ACT priority targets in the 2019 Agreement’s focus area action plans. No other publicly available report addresses all the targets of Phase One of the 2019 Agreement, as later publicly available whole-of-government reporting focuses on the *National Agreement for Closing the Gap*.

ACT targets in the 2019 Agreement’s Phase One focus area action plans

4.22 Each focus area action plan for Phase One of the 2019 Agreement included up to seven ACT-specific targets, in addition to targets identified under Closing the Gap, which was under review ahead of finalising the National Agreement.

4.23 Many of the ACT-specific targets lacked specificity and performance against these targets cannot be measured in a reliable and verifiable way. Consistent issues with the ACT-specific targets in the 2019 Agreement include:

- many measures identify a target to increase activity, but not by how much. Examples include:
 - Community Leadership: Increase the number of Aboriginal and Torres Strait Islander people on ACT Government boards and committees.

- Children and Young People: Increase in the number of Aboriginal and Torres Strait Islander children and young people referred to and engaged with preservation and restoration services by 2020.
- Cultural Integrity: Increase the number of community-based and visible events and artworks around the ACT which showcase Ngunnawal culture.
- Justice: Increase access to Aboriginal and Torres Strait Islander community controlled targeted early support and prevention services for victims, perpetrators and families.
- there are measures for which measurement is either difficult or poorly defined. Examples include:
 - Children and Young People: increase the level of early support responses for Aboriginal and Torres Strait Islander children and their families.
 - Community Leadership: increase in meaningful engagement with Aboriginal and Torres Strait Islander community members by the ACT Government.
 - Cultural Integrity: Demonstrate cultural proficiency of ACT Government.
 - Health and Wellbeing: Strengthened support for Mental Health and Suicide prevention.

4.23 Feedback was received from the Canberra Indigenous Business Network in response to the final proposed report. It advised more effort needed to be directed to how the focus area action plans under the 2019 Agreement are defined and being measured.

4.24 *The Annual Report on the Aboriginal and Torres Strait Islander Agreement 2019-2028 was tabled in the Legislative Assembly in April 2020. There was a lack of structure to the report and it was not possible to accurately determine which parts of the 2019 Agreement had (or had not) been progressed. The report predominantly consisted of unstructured reporting of highlights, which does not provide a faithful representation of progress that has (or has not) been made. There was also insufficient information provided in the report on the progress in developing and implementing the Outcomes Framework, which was intended to be used to promote accountability for implementation. Performance measures included in focus area action plans for Phase One of the 2019 Agreement, which were reported in the annual report, lacked specific targets or methods to assess performance. The annual report did not provide a clear assessment of directorate performance in implementing the 2019 Agreement.*

Outcomes framework and impact statement

4.25 The 2019 Agreement sets out the purpose and role of the Outcomes Framework and associated impact statement:

[The] Outcomes Framework will track our performance against the core outcomes identified in the [ACT] Agreement. Strategic Indicators will be reported to the Aboriginal and Torres Strait Islander Sub Committee of the ACT Strategic Board and made publicly available via an annual statement of performance by the Minister for Aboriginal and Torres Strait Islander Affairs.

- 4.27 The Outcomes Framework was finalised in April 2021 and describes how performance will be tracked. It sets out:
- the outcomes of both the 2019 Agreement and National Agreement;
 - performance measures relevant to their achievement; and
 - the baseline data against which to measure performance.
- 4.28 Performance measures have not yet been defined in the Outcomes Framework for the following focus area action plans:
- Community Leadership
 - Connecting the Community
 - Cultural Integrity
 - Inclusive Community
- 4.29 Outcomes Framework performance measures that have been developed were generally improved from those shown in the annual report on directorates' progress that was tabled in the Legislative Assembly on 2 April 2020. More effort was directed to ensuring that measures were more clearly defined and that data could be compared from year to year. Annually reported performance measures on the impact statement do continue to lack specific targets, however, with measures conveying only an increase or decrease in a stated metric. That said, the impact statement provides an effective picture of the achievement of outcomes at a community level. This supports self-determination as it can help Aboriginal and Torres Strait Islander communities identify their own priorities.

Impact statement

- 4.30 The impact statement is a publicly reported statement of performance that is prepared in line with the Outcomes Framework. The impact statement is available through the Community Services Directorate's website and is updated as new information is available. However, information has not been provided to date for the four focus area action plans for which performance measures have not been defined:
- Community Leadership
 - Connecting the Community
 - Cultural Integrity
 - Inclusive Community
- 4.31 The impact statement shows performance against the measures listed in the Outcomes Framework (where they have been developed). Performance against each measure has been reported with a summary result for each focus area in dashboard form for each year since 2019, to show if there is improvement across the focus area as a whole.

- 4.32 While the Outcomes Framework and impact statement give an effective picture of achievement of outcomes for communities, they do not effectively demonstrate the impact of the implementation of priority actions under the 2019 Agreement. There is no direct line of sight between the implementation of each of the 2019 Agreement's priority actions and the measures in the impact statement. This means that the impact statement does not provide feedback on directorate implementation activities.
- 4.33 The Outcomes Framework was finalised in April 2021. It describes how performance on the implementation of the 2019 Agreement will be tracked and sets out: the outcomes of both the 2019 Agreement and National Agreement; performance measures relevant to their achievement; and the baseline data against which to measure performance. The Outcomes Framework performance measures were generally improved from those shown in the annual report on directorates' progress that was tabled in the Legislative Assembly on 2 April 2020.
- 4.34 The impact statement is a publicly reported statement of performance that is prepared in line with the Outcomes Framework. The impact statement is updated as new information is available, but information has not been provided to date for four of ten 2019 Agreement focus area action plans. While the Outcomes Framework and impact statement give an effective picture of achievement of outcomes for communities, they do not effectively demonstrate the impact of the implementation of priority actions under the 2019 Agreement. Annually reported performance measures do continue to lack specific targets, however, with measures conveying only an increase or decrease in a stated metric. There is no direct line of sight between the implementation of each of the 2019 Agreement's priority actions and the measures in the impact statement.

ACT Annual Report for National Closing the Gap Agreement 2022

- 4.35 The *ACT Annual Report for National Closing the Gap Agreement 2022* was published in September 2022. The report is intended to communicate progress implementing the *National Agreement on Closing the Gap* (National Agreement). It is structured around the four priority reforms of the National Agreement. There is intersection between the National Agreement and 2019 Agreement, and the annual report covers some activities relevant to the implementation of the 2019 Agreement.
- 4.36 The impact statement is referenced in the report and is supplemented by additional commentary. This includes commentary on ACT performance towards National Agreement targets that contain new data, as well as directorate activities that are intended to contribute to these targets.
- 4.37 While it is brief in overall detail, it does highlight material activities that are intended to contribute to achieving both National Agreement and 2019 Agreement commitments. It does not list the status of priority actions under the 2019 Agreement that have not been commenced.

RECOMMENDATION 5 IMPACT STATEMENT TARGETS

The Community Services Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee:

- a) finalise outstanding performance measures for the Outcomes Framework; and
- b) develop targets for all performance measures identified in the Outcomes Framework.

RECOMMENDATION 6 WHOLE-OF-GOVERNMENT REPORTING

The Community Services Directorate should, through the auspices of the Aboriginal and Torres Strait Islander Affairs Inter-Directorate Committee, work with directorates to establish a whole-of-government, publicly reported annual performance statement on progress to implement the 2019 Agreement.

Directorate performance reporting

Annual Reports Directions

- 4.38 The primary means by which directorates publicly communicate their implementation of the 2019 Agreement is through annual reports. The *Annual Reports (Government Agencies) Notice 2017* created a requirement that:

Directorates and public sector bodies must report annual progress in relation to programs, projects and/or initiatives that benefit Aboriginal and Torres Strait Islander Peoples in the ACT. This information should highlight areas where government programs and policies are making a positive difference to the lives of Aboriginal and Torres Strait Islander Peoples in the ACT.

Information should include:

- new programs, projects and/or initiatives implemented during the reporting period; and/or
- progress, improvements and/or developments to existing programs, projects and/or initiatives during the reporting period.

Note: Directorates and public sector bodies may still include Aboriginal and Torres Strait Islander programs/projects/initiatives in other sections of the annual report where relevant, but should refer readers to Section B.1 for a comprehensive overview of progress during the reporting period.

- 4.39 This requirement was carried through to the *Annual Reports (Government Agencies) Directions 2019*. The *Annual Reports (Government Agencies) Directions 2021* updated the requirement so that:

Reporting entities must report annual progress under the ACT Agreement for Aboriginal and Torres Strait Islander Affairs (2019-2028) including programs, projects and/or initiatives that benefit Aboriginal and Torres Strait Islander Peoples in the ACT. This information should highlight areas where government programs and policies are making a positive difference to the lives of Aboriginal and Torres Strait Islander Peoples in the ACT.

- 4.40 This requirement continued into the *Annual Reports (Government Agencies) Directions 2022*. It is understood that 'the ACT Agreement for Aboriginal and Torres Strait Islander Affairs (2019-2028)' refers to the *ACT Aboriginal and Torres Strait Islander Agreement 2019–2028*.
- 4.41 Each of the notifiable instruments listed above requires the Director-General to affirm that the annual report is 'an honest and accurate account, containing all material information for the reporting year'. This requirement is equivalent to the description of a faithful representation as described in paragraph 4.5 of this report.
- 4.42 A materially complete report on progress implementing the 2019 Agreement would require the directorate to, at a minimum, discuss the status of its priority actions, including those that are incomplete. An honest and accurate account would require the representation to be neutral and free from error. The *Annual Reports (Government Agencies) Directions 2022* arguably leads directorates to provide information that may be subject to bias by requiring them to 'highlight areas where government programs and policies are making a positive difference'.

Directorate annual reports

- 4.43 The Audit Office reviewed directorates' annual reports for 2020-21 to determine if directorates had reported on their implementation of the 2019 Agreement, and whether incomplete actions had been reported in a structured way. The results of this review are shown in Table 4-2.

Table 4-2 Annual reporting on the 2019 Agreement (2020-21)

Directorate	Directly reported on the implementation of the 2019 Agreement in its 2020-21 Annual Report	Annual report includes commentary on incomplete actions in a structured way
ACT Health Directorate	✓	✗
Canberra Health Services	✗	✗
Chief Minister, Treasury and Economic Development Directorate	✗	✗
Community Services Directorate	✓	✗
Education Directorate	✓	✓
Environment, Planning and Sustainable Development Directorate	✓	✗
Justice and Community Safety Directorate	✗	✗
Transport Canberra and City Services Directorate	✗	✗

Source: Audit Office analysis, based on directorate annual reports.

4.44 A review of directorates' reporting on the implementation of priority actions under the 2019 Agreement shows:

- in most instances directorates' reports did not directly address, or align with, their action plan. Reports did not consider all priority actions directorates were accountable for under their action plan and were not consistently structured in a way that users could compare performance against the 2019 Agreement's focus area action plans. There were some examples of more structured reporting, such as for the Community Services Directorate, which used the 2019 Agreement focus area action plans to structure its reporting. Others, such as the Environment, Planning and Sustainable Development Directorate, provided a 'highlights-based' approach to reporting. Other directorates did not report their progress against the 2019 Agreement, such as the Chief Minister, Treasury and Economic Development Directorate which only discussed implementation of its reconciliation action plan and other directorate initiatives in narrative form, and Justice and Community Safety Directorate which reported on a variety of programs and activities related to the Aboriginal and Torres Strait Islander community;
- in most instances directorates' reports primarily conveyed a list of outputs in a narrative format. The reporting had not been structured in a way that facilitated analysis of performance. This usually reflected reporting activity highlights from directorates and did not consider the breadth of implementation activity. An exception was the Health Directorate, whose report largely encompassed its deliverables under its action plan;
- no directorate reported on implementation activities in a way that was neutral and materially complete. Directorates often did not report on the status of actions that were incomplete, and comparison between annual report commentary and directorate implementation plans showed material gaps in reporting. An exception was the Education Directorate, which provided a brief statement that it had reviewed its progress against the priority actions it was accountable for and stated how many were not yet complete;
- some directorates, such as the Education Directorate and Health Directorate, provided information on the impact of some outputs, but not in a way that facilitated analysis of performance; and
- some directorates referred report users to other documents and sources to understand directorate performance on the 2019 Agreement. For example, Canberra Health Services referred to its Statement of Commitment and the impact statement to demonstrate its performance. The Transport Canberra and City Services Directorate referred to its *Stretch Reconciliation Action Plan*. Often when these other documents were examined, they did not address the breadth of the directorate's commitments under the 2019 Agreement.

4.45 Directorates' reporting of their activities to implement the 2019 Agreement, as shown in their 2020-21 annual reports, did not provide a faithful representation of their activities. Report users cannot effectively understand progress against the 2019 Agreement's focus

area action plans and annual report commentary from directorates is not comprehensive. While some directorates gave commentary on activity, this was often through unstructured reporting of highlights and it did not consistently consider progress against incomplete priority actions. It is not possible for users to understand the impact of directorate activity to implement the 2019 Agreement.

RECOMMENDATION 7 ANNUAL REPORT DIRECTIONS

The Chief Minister, Treasury and Economic Development Directorate should review and update the annual report directions to explicitly require ACT Government directorates and agencies to report their progress in implementing the 2019 Agreement faithfully and without bias.

RECOMMENDATION 8 ANNUAL REPORTING TEMPLATE

In conjunction with Recommendation 7, the Office of Aboriginal and Torres Strait Islander Affairs should develop an annual reporting template for directorates to complete and include in their annual report. The template should require:

- a) reporting on the status of all priority actions identified in the directorate's action plan;
- b) the activities completed to progress each priority action; and
- c) the planned activities to progress incomplete priority actions.

Audit reports

Reports Published in 2022-23	
Report No. 05 – 2023	Activities of the Government Procurement Board
Report No. 04 – 2023	Procurement of a hybrid electric fire truck
Report No. 03 – 2023	Financial Management Services for Protected Persons
Report No. 02 – 2023	Management of Operation Reboot (Outpatients)
Report No. 01 – 2023	Construction occupations licensing
Report No. 10 – 2022	2021-22 Financial Audits Financial Results and Audit Findings
Report No. 09 – 2022	ACT Emergency Services Agency cleaning services arrangement
Report No. 08 – 2022	2021-22 Financial Audits – Overview
Report No. 07 – 2022	ACT Childhood Healthy Eating and Active Living Programs
Report No. 06 – 2022	Annual Report 2021-22
Report No. 05 – 2022	Procurement and contracting activities for the Acton Waterfront Project
Reports Published in 2021-22	
Report No. 04 – 2022	Governance arrangements for the planning of services for Parkwood, Ginninderry
Report No. 03 – 2022	Taxi Subsidy Scheme
Report No. 02 – 2022	Fraud Prevention
Report No. 01 – 2022	Management of Detainee mental health services in the AMC
Report No. 13 – 2021	Campbell Primary School Modernisation Project Procurement
Report No. 12 – 2021	2020-21 Financial Audits – Financial Results and Audit Findings
Report No. 11 – 2021	Digital Records Management
Report No. 10 – 2021	2020-21 Financial Audits Overview
Report No. 09 – 2021	Annual Report 2020-21
Report No. 08 – 2021	Canberra Light Rail Stage 2a: Economic Analysis

These and earlier reports can be obtained from the ACT Audit Office's website at <http://www.audit.act.gov.au>.