

22 June 2022

To Members of the Legal and Constitutional Affairs References Committee

Thank you for the opportunity of contributing to the Senate Inquiry into the Application of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in Australia.

NAATSIHWP is a self-determining, Aboriginal and Torres Strait Islander Community Controlled Organisation that holds responsibility for ensuring the Aboriginal and Torres Strait Islander Health Worker and Health Practitioner workforce - *the only culturally based health workforce underpinned by national training and registration in the world, established **by** Aboriginal and Torres Strait Islander people **for** Aboriginal and Torres Strait Islander people close to a century ago* - is expanded and embedded safely across Australia's health care system. We are well placed to comment on the application of the UNDRIP in Australia.

Our Board, Secretariat and National Membership Network consider the application of the UNDRIP to Australian law, policy and procedure as obligatory to reform. This is a timely inquiry.

Acting to embed, measure, and monitor the appropriate and effective application of the UNDRIP would **ensure** that the transformational shift endorsed to accelerate and improve the health and wellbeing of Aboriginal and Torres Strait Islander people, outlined in directives such as Australia's National Agreement on Closing the Gap and Uluru Statement from the Heart, is achieved through a continuous and congruent lens of equity and justice.

An ongoing nationwide focus on the application of the UNDRIP would help to safeguard the integrity of this shift and to achieve positive lasting health and wellbeing outcomes, the self-determined development of our peoples and a more mature, richer and cohesive nation, by:

- › embedding our sovereignty and the truth about Australia's past
- › restoring our dignity, agency, and power and
- › ensuring accountability for changing the way policies, programs and services are developed and delivered.

Finally, we urge you to prioritise Aboriginal and Torres Strait Islander voices in the course of this inquiry and in future implementation. We know that self-determination is a fundamental right under the UNDRIP. Self-determination will only be achieved when Aboriginal and Torres Strait Islander peoples are able to exercise their right to make decisions about their own futures, tribal groups and Countries.

Thank you for taking the time to consider our submission included at [Attachment A](#). More Information about our organisation is included in [Attachment B](#). If you would like to discuss further please don't hesitate to contact me.



Yours sincerely
Mr Karl Briscoe
Chief Executive Officer
National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners

Response to the Terms of Reference

By endorsing the National Agreement on Closing the Gap all Australian governments are seeking to establish a more responsive delivery system and to shift from a passive, deficit-based model of operation—whereby solutions are imposed and delivered to people by governments or their providers—to a more sophisticated model of enablement, where Aboriginal and Torres Strait Islander peoples have an active role in achieving their aspirations and addressing their needs. This is a positive development.

We also welcome the current Governments commitment to implementing the Uluru Statement from the Heart. Constitutional reform and genuine treaty negotiation are critical to embedding new values, relationships and practices.

Yet, from our experience despite these relatively new measures, the majority of policies, programs and services delivered by Governments and mainstream providers are still underpinned by outdated, racial, deficits-based paradigms that:

- › are incongruent with self-determination
- › are responsible for entrenching a status quo and
- › result in poor outcomes and the ineffective, inappropriate and inefficient delivery of policies, programs and services.

This demonstrates that Australia's support for and application of the UNDRIP has, to date, been poor. Achieving the depth of change required to restore the harm our peoples have survived over the past 200 years will require an ongoing focus on **change to practice** and, enacting the UNDRIP provides a sound mechanism for achieving this.

A focus on embedding the UNDRIP into Australian law, regulations, policies, and administrative practices therefore provides a powerful mechanism for ensuring congruency between policy and practice and, that going forward, relationships and dialogue are reset through a focus on the restoration of equity, justice, dignity, agency and power.

As a leader in the health workforce space we see considerable potential for enacting the UNDRIP in Australia and we are eager to play a lead role.

Establishing congruency of approach

To establish congruency in policy and practice we consider that initial efforts should focus on embedding the foundational rights of self-determination contained in Articles 3 & 4. They are critical to both the shift in policy directive and implementation of the UNDRIP as a whole.

Evidence demonstrates that the increase in self-determination gained through constitutional recognition and treaty results in improved health outcomes.¹ As a supporter of the Uluru Statement of the Heart, we see high value in voice, treaty and truth.

While we are reliant on Aboriginal and Torres Strait Islander leaders, researchers, academics human rights and legal experts to guide how this should be enacted into law, we consider reforming the Constitution to ensure consistency with the UNDRIP as mandatory. In this respect it would work to demonstrate sincerity, re-establish trust, and providing a sound basis for the UNDRIP to be properly realised through broad scale systems reform.

Aboriginal and Torres Strait Islander peoples consistently apply the principles codified in the UNDRIP. Prior to colonisation, we were fully self-determined. Since colonisation we continue to self-determine through ongoing acts of resistance and endurance. We achieve this when we pass down our culture and language, establish councils, organisations and collectives, return to and care for our Countries, and unite behind change. As part of implementing the UNDRIP the current focus on investing in and strengthening Aboriginal and Torres Strait Islander Community Controlled organisations should also be extended and maintained.

From NAATSIHWP's perspective, the application of Free, Prior and Informed Consent (FPIC) outlined in UNDRIP Articles 10, 11, 19, 23, 28, 29, 30 and 32 guarantee basic rights.

We support the management of FPIC principles as described by the United Nations in their Manual about the right to FPIC and project delivery and consider that:

- › FPIC ought to apply in any instance where a major change impacts on the life of a community member and
- › there is potential to achieve FPIC by strengthening existing engagement strategies to ensure that Aboriginal and/Torres Strait Islander communities have the right to fully understand and make a well-informed, independent decision about a change that will affect them.

If applied engagement will:

- › take place along longer timelines
- › be established and directed through ongoing partnership with community members
- › apply to all collectives of Aboriginal and/or Torres Strait Islander peoples, including place-based communities, workforces, organisations, and recipients of health, legal and community services; and
- › be measured and counted as an inherent component of reform.

¹ Ferdinand Et Al. "[Indigenous engagement in health: lessons from Brazil, Chile, Australia and New Zealand](#)" *International Journal for Equity in Health* no. 19 (2020) (9); The Royal Australian and New Zealand College of Psychiatrists, "[Recognition of Aboriginal and Torres Strait Islander peoples in the Australian Constitution](#)" *Position Statement* 68 (2018).

We recognise that there may be some reservations about the definitions of self-determination and free, prior and informed consent. These terms are not complex, but they do require effort to ensure they are properly implemented. At their core, self-determination and free, prior and informed consent are based on the experience and desires of Aboriginal and Torres Strait Islander peoples. As such, these definitions must be continually evaluated in line with the needs of and desires of Aboriginal and/or Torres Strait Islander groups.

Lastly, in moving forward, in a nation founded on colonialism, it is critical to understand that the full application of UNDRIP principles will not be achieved unless the Australian people walk in solidarity with us to activate change. Our efforts to self-determine are consistently hampered by mainstream systems, who treat us as problems needing to be fixed, harm our people in prisons and hospitals, take our children, refuse to recognise our cultures, leadership and decisions and deny us equity, justice and basic human rights. Systemic racism impacts us across the life course. In this respect the burden does not lie with us. Aboriginal and Torres Strait Islander people have been and continue to be harmed in the hands of those in positions of power and the application of the UNDRIP will also demand an ongoing system wide focus on embedding cultural safety.

About NAATSIHWP

NAATSIHWP is a self-determining representative body growing and embedding a self-determining workforce. We partner with governments and other stakeholders to improve the development and delivery of Aboriginal and Torres Strait Islander policies, programs and services.

NAATSIHWP is a small, agile, responsive, and innovative Aboriginal and Torres Strait Islander governed and managed charitable organisation with national influence and reach.

The NAATSIHWP Board comprises of Aboriginal and/or Torres Strait Islander health Worker or Health Practitioner from each state and territory, and the Torres Strait Islands. It sets the strategic directions and provides oversight over the services provided to the workforce. NAATSIHWP regularly consults with the workforce to ensure our objectives align with the needs of our members. As a result, our organisation is able to accurately represent the perspectives of the Aboriginal and/or Torres Strait Islander peoples it speaks for.

We have been funded by the Australian Government since August 2009 to:

- › promote the prevention and control of disease and other health conditions in Aboriginal and Torres Strait Islander communities
- › improve the health outcomes of Aboriginal and Torres Strait Islander people
- › address the impacts of Aboriginal and Torres Strait Islander disadvantage and
- › address the under representation of Aboriginal and Torres Strait Islander people working within Australia's health care system.

We achieve this by:

- › delivering and collaborating on initiatives to ensure the Aboriginal and/or Torres Strait Islander Health Worker and Health Practitioner workforce is embedded as a vital, valued and professional component of Australia's health care system
- › recognising, addressing and promoting the social and cultural determinants of health
- › establishing and maintaining networks, partnerships and alliances with key government agencies, other Aboriginal and Torres Strait Islander organisations, researchers, academic institutions, and other national health bodies
- › participating in a range of key strategic initiatives to influence the design and delivery of policies, programs and services and
- › role modelling the benefits of community control, self-determination and implementing rights-based best practice principles and approaches.

A key part of our role involves directly supporting a growing national membership network of over 1100 Aboriginal and Torres Strait Islander Health Workers and Health Practitioners. In this respect we:

- › support and promote policies to ensure the effective utilisation and professional integration of the Aboriginal and Torres Strait Islander Health Worker and Health Practitioner workforce
- › provide support, training and resources to improve the prevention, diagnosis, treatment and management of disease and chronic health conditions
- › deliver professional development forums, conferences and symposiums
- › liaise with regulators, training authorities and employers to ensure the recruitment and retention of a skilled and competent workforce and
- › actively promote education and career pathways.

Our success, and the success of similarly-structured Aboriginal and Torres Strait Islander organisations demonstrates the importance the application of the practices enshrined in the UNDRIP.

About our self-determining workforce

As the world's only culturally based health professions underpinned by national training and regulation, Aboriginal and/or Torres Strait Islander Health Workers and Practitioners are a key example of the application of UNDRIP principles in Australia. The professions have been established by Aboriginal and Torres Strait Islander people for Aboriginal and Torres Strait Islander people. Much can be learned from this workforce about self-determination and the right to self-improvement and self-governance.

This health workforce is a direct example of Articles 3 (self-determination), 21 (rights to improvement of social and economic conditions including health), and Article 31 (rights to maintenance, control, protection and development of cultural heritage, traditional knowledge and traditional cultural expressions including science and medicines).

Evidence directly connects the workforce to improved health and wellbeing outcomes across the life course.² With lived experience in and a deep understanding of the communities they serve, Aboriginal and/or Torres Strait Islander Health Workers and Health Practitioners provide a high standard of culturally safe and responsive care, act as cultural brokers and health system navigators and are crucial to easing the anxiety resulting from negative experiences with health research and care in the past.³ They act as the first point of contact for Aboriginal and Torres Strait Islander clients when they engage with the health system, and they support that same client in an advocacy role in their journey through the healthcare system. Their combination

² Health Workforce Australia, [Growing our Future Final Report](#), 2-3.

³ Stajic, Janet. "...[but what about the Aboriginal and/or Torres Strait Islander Health Worker academic? Transcending the role of 'unknowing assistant' in health care and research through higher education: a personal journey.](#)" *The Australian Journal of Indigenous Education* (2021) 1 (2).

of clinical, cultural, social and linguistic skills delivers an engagement capability and community reach that sets them apart from others working in the health care system.

We know that

- › the Aboriginal and Torres Strait Islander led models of care that Aboriginal and/or Torres Strait Islander Health Workers and Practitioners deliver “encompass the physical, social, emotional and cultural wellbeing of both individuals and the whole community”⁴⁵
- › the professions are crucial to addressing lower life expectancy, rates of early discharge and other health problems prevalent in Aboriginal and Torres Strait Islander communities.⁶
- › Aboriginal and/or Torres Strait Islander ⁷ In the Northern Territory, for example, Aboriginal and/or Torres Strait Islander Health Practitioners are trained by paediatric cardiologist Dr Bo ⁸ to take regular heart ultrasounds for patients with rheumatic heart disease, enabling those patients to remain at home during the wet season, reducing the need to travel to cities as their follow up is provided in a culturally safe space on Country.

The workforce is vital to improving the relationship between Aboriginal and/or Torres Strait Islander people and the health system, and subsequently improving health outcomes. This is only achieved because Aboriginal and/or Torres Strait Islander peoples have been able to autonomously care for their communities in a distinct act of self-determination.

⁵ Stajic, Janet. “...but what about the Aboriginal and/or Torres Strait Islander Health Worker academic? [Transcending the role of ‘unknowing assistant’ in health care and research through higher education: a personal journey.](#)” *The Australian Journal of Indigenous Education* (2021) 1 (3-4).

⁶ Lowitja Institute, “[Our Choices Our Voices: Close the Gap](#)” Close the Gap Campaign Steering Committee (2019) 18-19; Abbott, P, Gordon, E & Davison, J. “[Expanding roles of Aboriginal health workers in the primary care setting: seeking recognition.](#)” *Contemporary Nurse* 26, no. 1 (2007), 68-69, 70-71.

⁷ Abbott, P, Gordon, E & Davison, J. “[Expanding roles of Aboriginal health workers in the primary care setting: seeking recognition.](#)” *Contemporary Nurse* 26, no. 1 (2007), 67.

⁸ Frances Et Al., “[The RECARDINIA Study Protocol: Diagnostic utility of ultra-abbreviated echocardiographic protocol for handheld machines used by non-experts to detect rheumatic heart disease](#)” *BMJ open* 10, no. 5 (2020).