



Aboriginal Affairs New South Wales (NSW)

# Literature Review of the Local Decision-Making Initiative Report

21<sup>st</sup> November 2022

# Acknowledgment

We acknowledge all First Nations people and traditional ownership of Country throughout Australia.

We recognise their continuing connection to land, waters, and community.

We pay our respect to them and their cultures, and to all Elders, past, present and emerging.

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# Foreword

Aboriginal peoples in NSW belong to the longest continuing cultures on Earth. Their knowledge systems and cultural ways of knowing, being and doing have successfully and respectfully guided societal relationships and local decision-making long before colonisation and western government systems were established.

For decades, Aboriginal peoples across NSW have been in discussions with government about how best to collaborate on issues of significance that have the potential to lead to social and economic change. Change that will see the socio-economic status of Aboriginal peoples in communities throughout NSW shift to a more positive trajectory and an improved dominant narrative that is strength-based and embeds cultural and social determinants of wellbeing and economic empowerment. Change where Aboriginal peoples have agency, and their voice is included in decision-making about matters that impact on their lives and futures.

Local Decision Making (LDM) and Accord-making being implemented under AANSW's *OCHRE* plan provides a process that challenges and sets out to change the fundamental structure of how service delivery projects are pursued by NSW Government agencies, allowing for regional and community-driven, inclusive, and more equitable participation and decision-making for service delivery that aims to improve the lives of Aboriginal peoples. It provides a mechanism for Aboriginal peoples to be given the opportunity to offer insights and perspectives from their own unique positions and lived experiences to work towards the change they feel is necessary for their communities (O'Bryan and Thomas, 2022;p10).

Murawin was engaged by Aboriginal Affairs NSW to review published and unpublished literature relevant to the LDM initiative to provide an outline of how they can inform and evolve with other initiatives and emerging policy settings, including Closing the Gap and the Voice. We reviewed a suite of literature that provided insights into the functionality and operations of LDM with the view to determining potential efficacy, appropriateness and capacity for ongoing interaction between government and Aboriginal communities.

In undertaking the review of the LDM initiative, we explored attributes that are best suited to community governance and LDM. We looked at issues such as the feasibility of local versus regional bodies, portfolio decision-making, sustainability and ongoing capabilities.

We also acknowledge that this review builds on the Stage 1 Evaluation reports.

# Executive Summary

This project has been initiated to undertake a review of relevant published and unpublished literature relating to LDM for the purposes of strengthening the process and identifying opportunities for structural transformation. The literature noted that as a governance and decision-making structure there is general agreement that LDM and the Accord negotiation process is generally working well and that as a whole promote greater involvement of Aboriginal peoples in priority setting and decision-making regarding how government programs and services are conceived, developed and implemented in their local communities. However, the literature also noted that there are significant aspects to the processes that require change, if genuine and sustainable outcomes are to be achieved.

Some of these changes include reviewing the seniority and cultural competency of personnel involved in Accord negotiations and their delegated authority, resourcing that supports adequate and appropriate levels of participation by Aboriginal stakeholders who are often volunteers across all phases of LDM and Accord-negotiations, timeliness of decision-making by government stakeholders as lengthy delays have resulted in Aboriginal stakeholders losing faith in the process, and ensuring that all involved understand the objectives and responsibilities of LDM including negotiating Accords, developing the Statement of Commitment and the ongoing operation of Regional Alliances.

Overwhelmingly, the literature provided strong examples of how the LDM model is a vehicle that has the potential to support self-determination in NSW. That it has the capacity to facilitate and increase control and self-determination over Aboriginal service delivery, improve recognition of and support for Aboriginal-led and designed governance structures. LDM initiatives enable a genuine Aboriginal voice to filter through and influence how NSW Government agencies deliver services in those regions, and improve working relationships between Regional Alliances and NSW Government agencies (O'Bryan and Thomas, 2022;p10)

Aboriginal peoples throughout NSW have asserted their right to self-determination for decades. Communities have always had their own systems and processes of governance and decision-making that continue to direct the way 'business' is conducted in their communities. Their knowledge systems continue to provide guidance for how as a collective they work together to fulfil cultural and communal obligations, meet their responsibilities to Country and how their communities are governed, and people interact with each other. Despite this, they have continually struggled to find a model of decision making at the community level where the partnership between Aboriginal community representatives and Government is of equal standing. LDM sought to change this; however, it is highlighted in the literature that despite

the existence of principles and protocols developed by one of the Regional Alliances to support their efforts in achieving meaningful outcomes for their communities, the negotiation process used did not always follow Aboriginal ways of knowing and doing, nor was it always culturally safe. The evaluation also found that difficulties arose when government Lead Agency Negotiators stepped into the process to negotiate funding. The difficulties that Regional Alliance Accord Negotiators experienced in their efforts to negotiate their Accord Schedules provide important insights about how limitations with the 'authorising environment' resulted in this outcome. Factors identified as impeding effective negotiations include: the lack of authority of Lead Agency negotiators; the lack of creative, holistic and innovative solutions; the lack of integrated responses; lack of flexibility in spending; lack of remuneration for the Regional Alliance's Accord Negotiators; and the barriers in relation to data (see Howard-Wagner & Harrington, 2022). The literature highlights the challenges of enabling an equal partnership, LDM initiatives are generally supported by Aboriginal peoples but needs to be further strengthened in order to retain that support and commitment.

It is gradually being recognised by Governments that ensuring that governance structures are established the 'right-way' is fundamental to improving outcomes for Aboriginal peoples and generating sustainable outcomes. 'Right-way' is based on cultural respect and truth-telling, genuine collaboration, being proactive in addressing disadvantage, acknowledging power imbalances that exist between government and Aboriginal communities and the right of Aboriginal peoples to self-determine their futures. LDM can become a pathway for operationalising 'right way'. The Premier's Memorandum M2015-01-Local Decision Making (NSW Government Department of Premier and Cabinet, 2015), which provides the enabling framework for LDM; and the Local Decision-Making Policy and Operational Framework (AANSW, 2017b), provide a clear mandate and set of principles that instructs NSW Government agencies entering into Accord negotiations to do so through shared decision-making and working in partnership with Regional Alliances to respond to Aboriginal community needs sets a strong foundation for working 'the right way'.

The literature shows that despite the existence of signed Accords, the evaluations conducted by CAEPR researchers and past evaluations found low levels of trust in the NSW Government, NSW Government lead agencies, and the LDM process. This was due to problems in the period following the Accord-signing phase that related to the length of time and significant resources expended in developing and negotiating Accords and the fact that some Accords had to be re-negotiated at the last minute. The literature noted, that in their own way, negotiators from both NSW Government lead agencies and Regional Alliances each felt the large amount of time invested in the Accords-negotiation process without implementation strained relationships between those Lead Agencies and Regional Alliances and eroded community engagement and confidence in the process (Howard-Wagner & Harrington, 2022, p. 32; O'Bryan and Thomas, 2022, p. 5, 19, 33; Smyth & Katz, 2018, p. 1).

This affirms the anecdotal position, that many Aboriginal people continue to distrust government agencies and their genuineness in wanting to pursue new initiatives. This distrust is due to the aftermath of public policies that continue to impact the opportunities for collaboration. This distrust is ever-present and efforts that work towards healing and truth-telling as key principles should always underpin ongoing efforts as part of LDM. The importance of building on work that strives for collaboration and partnerships such as LDM has the potential to create trusting environments where these ongoing issues of distrust can be collectively worked through.

As a NSW-driven and community informed local decision-making structure, LDM has been viewed as a very progressive model that needs to be maintained (Howard-Wagner 2022 p.9-10). It has proven to be critical in achieving a 'new way of doing business', has created and renewed partnerships between government and Aboriginal peoples and contributes towards ongoing self-determination.

Diverse community governance structures such as those managed by Regional Alliances through LDM have enabled high level government decision makers and Aboriginal communities to connect and find pragmatic ways to strategically collaborate and drive targeted service delivery aimed at improving outcomes for Aboriginal peoples. Changes in the political landscape of Aboriginal affairs towards increasingly partnership based and shared decision-making arrangements, not just in NSW but indeed nationally, have meant that Aboriginal community governance models such as LDM are increasingly relevant. They should be retained with appropriate resourcing and genuine commitment by all parties involved. This will allow them to continue to build on the countless efforts, learnings and insights arising from this collaboration to become ever more effective for the benefit of the new national and state landscape which is increasingly built upon partnership and shared decision making.

Retaining the LDM model provides a stable and consistent anchor to assist government and Aboriginal communities to be resilient and to cope and adjust to changing political landscapes. Aboriginal regional governance structures, which engage with communities through community working parties and other forms of community engagement, empower Aboriginal people in their engagement with NSW Government agencies in ways that are complementary to the arrangements instigated under the NSW Closing the Gap Implementation Plan.

Finally, the evaluations identify several strengths pointing to the capacity of LDM to co-exist with other community governance structures, such as Closing the Gap (CtG) and the Voice models being driven by Commonwealth Government. They each aim to embed local Aboriginal voices into decision-making and self-determining priorities for Aboriginal communities. The bringing together of initiatives such as CtG and the Voice with LDM avoids duplication and lessens the pressure on local Aboriginal community stakeholders to be involved in multiple local decision-making groups. At the same time, it amplifies the voice of community and strengthens the articulation of the needs and aspirations of Aboriginal peoples as a collective, greater collaboration between governments and effective resource management.

# Introduction

Local Decision Making is a key initiative of the *OCHRE* Plan: NSW Government's community focused plan for Aboriginal affairs that was established to provide a new way of working between government and Aboriginal peoples across NSW. *OCHRE* stands for Opportunity, Choice, Healing, Responsibility and Empowerment and was a response to state-wide consultations and recommendations emanating from several reports including the Ministerial Taskforce on Aboriginal Affairs, the NSW Government Audit Office Report into Two Ways Together – NSW Aboriginal Affairs Plan and the NSW Ombudsman's Addressing Aboriginal Disadvantage: the need to do things differently. Each report categorically stated that despite significant efforts to address chronic problems facing Aboriginal communities, disadvantage continued to be experienced at unacceptable levels and that a new way of doing business was needed.

The introduction of the *OCHRE* plan sought to provide a platform for transformational changes to the way that government and Aboriginal communities interacted and to improving outcomes for Aboriginal peoples in the context of the social, economic, and political life of their communities. The *OCHRE* plan consists of several components, including Local Decision Making (LDM) which aims to increase the capacity of Aboriginal peoples and government agencies to better make decisions about local service delivery together.

A fundamental aspect of LDM is the Accords and the Regional Alliances. Accord negotiations are an important mechanism for agreement making between government and Aboriginal peoples. Regional Alliances have demonstrated significant strategic foresight and capacity to negotiate in good faith toward resetting the relationship between Aboriginal communities and the NSW Government. Accords are negotiated agreements between Regional Alliances and NSW Government agencies on service delivery priorities, governance arrangements and levels of investment per regional area (AANSW, 2017a, p.8). Accord commitments are made for a period of three years and involve several stages of development. The relationship between NSW Government and Regional Alliances and their constituent communities is strongly shaped by the Accords (AANSW, 2017a, p.5).



LDM is a vehicle for voices of community and regions to reach NSW Government agencies through bottom-up, Indigenous-led regional governance structures. The negotiation of Accords, and LDM as a whole, promote greater involvement of Aboriginal people in priority setting and decision making regarding how government programs and services are conceived, developed, and implemented. Although the aims and objectives of LDM are discussed in various documents, there seemed to be differing views between the Regional Alliances and Government agencies as to what LDM is attempting to achieve and the extent to which intended outcomes of Accords are meeting those objectives. These differing views are further exacerbated by the broad lack of understanding about LDM among public officials who were Lead Agency Negotiators in some of the Accord negotiations with the Regional Alliances. The data revealed that confusion exists about the purpose of LDM and that this limited what was possible to negotiate. This was a finding of the first MPRA evaluation (CIRCA 2015, p. 19) and a finding in the Synthesis Report. (O'Bryan & Thomas, 2022, p. 30). Lead Agency Negotiators reflected that they came to the Accords negotiations with little understanding of the aims and objectives of LDM, and how it related to other national and state Indigenous affairs policies and structures.

The NSW Deputy Ombudsman (Aboriginal Programs)'s review of *OCHRE* provides the clearest definition of LDM (NSW Ombudsman, 2019, pp.11-12, emphasis added): The *OCHRE* Local Decision Making (LDM) initiative is a ground-breaking practice and decision-making model directed at changing how the NSW Government works with Aboriginal leaders and communities... The vision for LDM is to provide NSW with a clear framework for the government and Aboriginal communities to negotiate and collaborate on service delivery issues; provide scope for regional Aboriginal governance bodies to operate as equal partners with government; and ensure that Aboriginal communities are more satisfied with government services.

A review of LDM provides a genuine opportunity for the NSW Government and Aboriginal stakeholders to explore the strengths and weaknesses of the model through evidence-based research that has been undertaken over several years. This report highlights ways in which LDM mirrors and contrasts with shared decision-making provisions in The Voice and CtG. It will show how the similarities and differences in partnership and shared decision-making arrangements between these national policy initiatives and LDM can be understood as complementary and mutually supportive and explain how LDM can logically dovetail with both of these strategies if LDM is invested in, strengthened and expanded.

# Key Findings Summary

This section summarises findings and recommendations and conveys the following points:

**Aboriginal communities across NSW have long striven for self-determination** in relation to the right to freely determine their own political, economic and social development. Countless Aboriginal affairs policy frameworks at jurisdictional, national and indeed international levels, such as the United Nations Declaration on the Rights of Indigenous Peoples, have articulated the human rights approach of Aboriginal peoples to determine their futures and maintain their unique social, cultural, and economic systems. LDM has been identified by participants in evaluations as the most advanced model for actual expression of self-determination in Australia (Katz et al 2018a p. h).

**Aboriginal stakeholders have asserted the importance of having two-way governance structures** in place that focus on more than just economic wellbeing of communities, but also take into consideration cultural and communal responsibilities. Important to this standpoint is the issue of interculturality which sees both parties respectfully learning from each other, which reinforces the two-way governance model. The LDM model has been praised by some participants for its strong support of relationship building and understanding between parties to the Accords (Katz et al 2018a p.4). Increased mutual understanding of internal cultural demands for both Regional Alliances and Government was reported as a fruit of the Accords process AANSW 2017b p.20).

**Aboriginal peoples have asserted their rights to have their cultures and ways of working and recognised by government as critical to working collectively** to resolve issues impacting on Aboriginal communities. They have successfully advocated and negotiated with the NSW Government for the legitimate positioning of their cultural authority in governance structures intended to guide local and regional decision-making around service delivery and resource allocation. The current LDM model builds on and continues this long-term work.

**As noted above, literature reveals that LDM is viewed as a very progressive model and possibly the most advanced in terms of actual expressions of self-determination** in Australia. LDM offers the potential for a unique level of power sharing and recognition of self-determination to the extent of enabling an ongoing process of choice for Aboriginal people and the right for them to input into decisions relating to their cultural, social and economic needs. The LDM framework challenges the dominant narrative of deficiency that surrounds Aboriginal peoples and amplifies a strengths-based approach, highlighting understanding and insights community have to lead decision-making in their communities (AANSW 2017b p.4).

The literature shows that the Aboriginal communities who were familiar with **LDM believed that it is a positive example of how government can work with Aboriginal communities to collaborate on decision-making** and that LDM had continued to experience widespread endorsement at the time of the study.

**Local decision-making as a process that supports and resources the notion of empowerment and co-accountability** in addressing Indigenous issues has been steadily gathering momentum not just in NSW but indeed in other jurisdictions such as Queensland with their Local Thriving Communities initiative. Similar to *OCHRE*, the Queensland Government has committed to long term reform that strives for transformational change whereby government works alongside Indigenous communities to ensure that they have agency and a greater say in shaping their futures.

**LDM is a ground-breaking initiative that has provided a platform for the creation of an Aboriginal community governance model** capable of driving significant change in how government does business with Aboriginal communities. For LDM to be authentic and genuine in truly enabling local decision making in their areas, there needs to be a clear commitment from government to the transfer of authority to Aboriginal Regional Alliances through LDM in relation to resource allocation structural change is often not easy and requires time and commitment to doing things differently.

**Building long-term trusting relationships takes time.** This includes time to understand the needs of others, to reflect on the genuineness of the process and to determine the right way of doing things that will be of mutual benefit. Due to a long history of policy flux and non-fulfilment of promises, many Aboriginal people harbour a justified skepticism about government and its initiatives in the Aboriginal Affairs space. Accordingly, LDM needs to be given the time, resources and the certainty of an ongoing, long-term process. Aboriginal stakeholders need to have confidence that it is worth investing in LDM to maximise their engagement. In turn, government will need to consider its willingness to devolve decision-making and make the structural adjustments necessary across government agencies if LDM is to evolve and fulfil its potential.

**As an existing local/regional mechanism established to meet the needs and aspirations of Aboriginal communities, LDM has the structure with links to both government and Aboriginal stakeholders to deliver on national frameworks such as CtG and The Voice model.** It is important to note that both CtG and the Voice processes have emphasised in their messaging that they will continue to work with, rather than duplicate or replace, existing local Aboriginal community governance mechanisms. This gives rise to a potential pathway for accommodating CtG framework and the Voice within the LDM initiatives. If adhered to, the principles for negotiating Accords offer a best practice model for developing formal partnership arrangements to support Close the Gap in regions and their communities (O'Bryan and Thomas, 2022;p10).

**A clear distinction between LDM and CtG and The Voice model is that the NSW Government is that LDM is a state-based model, whereas CtG and Voice is nationally driven across multiple jurisdictions.** This includes determining what elements are retained at the end of the 10-year lifespan of the current National CtG Agreement. Contrastingly, the NSW Government has responsibility over the LDM model. This means that a long-term commitment to shared decision making is only able to be guaranteed and confidently pursued by the NSW Government under LDM. This important development in government/Aboriginal relations in NSW needs to continue regardless of what is happening at the national level. This is because if the NSW Government and Aboriginal communities continue to work increasingly effectively via LDM, then the model can support outcomes and prioritisation of service that is best suited to the NSW situation. This is as opposed to trying to fit into national frameworks. It allows NSW to go above and beyond just complying with national frameworks that may devolve to a one-size-fits-all approach and develops tailored responses to the needs and aspirations of Aboriginal peoples in their communities across the state.

**A fundamental aspect of LDM is the Accords and the Regional Alliances. Accord negotiations are an important mechanism for agreement making between government and Aboriginal peoples. Regional Alliances have demonstrated significant strategic foresight and capacity to negotiate in good faith toward resetting the relationship between Aboriginal communities and the NSW Government.** Accords are negotiated agreements between Regional Alliances and NSW Government agencies on service delivery priorities, governance arrangements and levels of investment per regional area (AANSW, 2017a, p.8). Accord commitments are made for a period of three years and involve several stages of development. The relationship between NSW Government and Regional Alliances and their constituent communities is strongly shaped by the Accords (AANSW, 2017a, p.5).

**With regard to Accord-negotiation phases, there are several matters that require attention in order to maintain faith in the process from the both Regional Alliances and Government agencies perspectives** which include: remuneration of Regional Alliance negotiators, financial and administrative delegation given to the Government Lead Agency Negotiator, training for Government representatives in cultural competency in understanding Aboriginal cultural protocols relating to engagement and their building their capability to navigate the complexity and interconnectedness of Aboriginal communities.



## Strengths of LDM

This review of the literature relating to LDM has identified several strengths in both the design of LDM and how it is working in practice. These strengths should be considered in the context of federal governance structures aimed at embedding local Aboriginal voices into decision-making and self-determining priorities for Aboriginal communities. The fact that membership and therefore insights and input into the dialogue occurring through LDM is driven from a local perspective means that all decisions are informed by the needs and aspirations of people that live and work in the relevant areas. Negotiations under LDM are strongly place-based and have the potential to deliver on outcomes that are targeted and specific to a local area. Consequently, this also means that by default LDM also has the potential to contribute to the CtG targets and the Voice outcomes. This is explored in more detail later in this report. This section reviews the strengths and aspects of the LDM model that are working well.

Key strengths relating to LDM design and implementation:

- strengths-based, place-based and community-centred structures
- members for the group being drawn from local Aboriginal communities
- clear authority and strong leadership in representing community needs during LDM processes
- the ability to engage key decision-makers and enhance relationships between government and Aboriginal communities
- the potential to support ongoing self-determination in practice
- NSW-centric framework that has the potential to funnel the integration of a national agenda in the context of a locally-based arena.

## LDM Structure

LDM's strengths-based, place-based, and community-centred structure builds on decades of community governance work in NSW (AANSW 2017b). According to the Local Decision-Making Information Package published by Aboriginal Affairs NSW (AANSW), its 'ultimate aim is to ensure Aboriginal communities have a genuine voice in determining what and how services are delivered to their communities' (AANSW, 2017a). It is noted that the Accord-making process involves three phases of negotiation: the pre-negotiation, negotiation, and post-negotiation phases and that before any Accord-negotiations can take place, the Regional Alliances have to demonstrate that they are Accord-ready and engage with their communities to develop a Statement of Claim.

It is the various elements of the LDM model that enables the espoused equal partnering of both Government agencies and Regional Alliances at the decision-making table. It is understood that NSW Government is represented by public officials from lead NSW Government agencies, and those who sit at the negotiating table are formally referred to as 'Lead Agency negotiators'. Regional Alliances are represented by nominated 'Regional Alliance negotiators'. An Independent Facilitator is appointed to facilitate negotiations.

The next step is the negotiation phase, which includes pre-Accord workshops where both parties, which are represented by Lead Agency Negotiators and Regional Alliance Negotiators, work together to develop shared goals and shared understandings of what success looks like. The negotiation phase also includes formal Accord negotiations, where both parties work together to establish strategies, activities, resources, and responsibilities to achieve their shared objectives. The Minister for Aboriginal Affairs then signs the Accord. In the post-negotiation phase, agreed strategies, activities, resources, and responsibilities are recorded; indicators, measures and targets are confirmed; and accountability arrangements are negotiated in the form of Accord Schedules. Once the Schedules are signed by the Minister, the process enters the implementation phase in which the Accord and its Schedules are implemented.

The literature highlights that such structures have proven to be effective in identifying, representing, and addressing community needs (AANSW 2017b; Howard-Wagner et al. 2022). The LDM model is built on the fact that the Accord priorities will be decided by Aboriginal community representatives through the Regional Alliances and outlined in the Statements of Claim. This promotes the agency of Regional Alliances in LDM as outline in the literature. (Katz et al. 2018b; Katz et al. 2018c). The structure is well-received by the community as the Accord priorities align with local needs and have the potential to influence positive change across government services (Katz et al. 2018b).

## LDM Implementation

In terms of the implementation of the LDM structures, Regional Alliances reported that a key success of LDM is the ability to engage directly with key government decision-makers and gain commitments to improving service delivery across housing, health, employment, environment, and policing (Katz et al. 2018b; Smyth & Katz 2019). The literature highlights that LDM and Accord-making challenges and sets out to change the fundamental structure of how service delivery projects are pursued by NSW Government agencies, allowing for regional and community-driven, inclusive, and more equitable participation and decision-making for Indigenous service delivery that aims to improve the lives of Aboriginal people. It provides a mechanism for Aboriginal people to be given the opportunity to offer insights and perspectives from their own unique positions and lived experiences (O'Bryan and Thomas, 2022;p10).

Strong leadership and the clear authority to represent Aboriginal communities established through the Regional Alliances has facilitated the processes of negotiating Accords (CIRCA 2015) and it is this leadership from Aboriginal communities along with leadership from public officials that is critical to driving the behavioural changes needed to improve LDM. Regional Alliance members also reported that LDM processes, such as meeting structures and reporting, enhanced transparency as they were facilitated as an open forum with a variety of stakeholders and observers in attendance<sup>1</sup> (CIRCA 2015). Deliberations were also conducted in an **"open, frank and transparent"** manner which further contributed to the transparency and efficacy of the process (CIRCA 2015 pg. 5 & 12).

Amongst the Regional Alliances and Government agencies there is a variety of views in relation to the deemed success of the Accord-negotiations. Currently, there are nine Aboriginal Regional Alliances in NSW participating in LDM to negotiate with the NSW Government about the design and delivery of services. Despite the benefits of LDM, the literature found that LDM was not adequately resourced or funded, and this limited the efficacy of the Accords making process particularly for those that are younger in their establishment. For example, the Murdi Paaki Regional Alliance (MPRA) represents 16 communities of the Murdi Paaki region in negotiations with governments. It pre-dates the *OCHRE* plan by more than 20 years. Similarly, Barang Regional Alliance has been established for some time and is the backbone entity for the Empowered Communities initiative on the Central Coast. In contrast, Riverina Murray Regional Alliance (RMRA), is the youngest of the Regional Alliances, and was at a clear disadvantage because it did not have access to additional sources of funding such as Closing the Gap or Empowered Communities, as others did (O'Bryan and Thomas, 2022;p19).

Despite the differing access to resources and longevity of participation in community governance structures, each of the Regional Alliances noted in the literature had their own distinct history of working with government, different governance structures, and were at different stages in the Accord negotiation process. Each of the three Regional Alliances profiled in the 2022 report on Accord negotiation by CAEPR were well prepared, committed to negotiating important outcomes for the communities they represent, and demonstrated a high level of commitment and capacity to negotiate important outcomes for those communities. All three Accord processes aligned community priorities with potentially differing state and Commonwealth policy objectives including LDM, Empowered Communities, and Closing the Gap (O'Bryan and Thomas, 2022;p27).

The literature notes the importance of ensuring place-based responses to LDM and that even through the various Regional Alliances differ in membership, structure and resourcing and so on, Aboriginal peoples are coming together to form governance models suited to their regions and those governance bodies are working closely with their communities to develop Statements of Claim that identify priority areas and actions to support policy reform to progress outcomes for that region that feed into the Accord-negotiation phases. This process is an important mechanism for agreement making between government and Aboriginal peoples in NSW, it increases control and self-determination over Indigenous service delivery, improves recognition of and support for Aboriginal governance, enables genuine voice to filter through and influence government decisions about Indigenous service delivery, and improves relationships. These are good outcomes for LDM and working towards meeting the objectives of the Regional Alliances and LDM.

The literature does highlight cases of both successful and unsuccessful negotiations of Accords with the different Regional Alliances and is worth noting the reasons underpinning the outcome. Successful negotiations were described by government negotiator leads as **"impartial, professional, committed, confident, diligent and well connected"** (CIRCA 2015, pg. ii). These processes enabled Regional Alliance members to develop a better understanding of government structures and for government representatives to enhance their understanding of community needs (CIRCA 2015; Katz et al. 2018a). Some Regional Alliance representatives report that LDM and Accord negotiation processes are likely to hold government services to account as the process of agreement making allows for questions to be asked of government agencies and Aboriginal stakeholders such as program delivery and data sharing. For Regional Alliance representatives, sharing of data and information enhanced relationships and trust (AANSW 2017b).



Government support, particularly that provided by AANSW to the Murdi Paaki Regional Assembly (MPRA), enhanced the Regional Alliances engagement in LDM (CIRCA 2015). AANSW supported MPRA in finalising MPRA's statement of claim and documentation of the Accord negotiation process, outcomes, and decision. This support was identified as a key strength during the Accord Negotiation Process (CIRCA 2015). An additional strength identified during the Accord's negotiation process was the **'respectful, solutions-orientated tone'** set by DPC which advanced negotiations (Smyth & Katz 2019 pg. 25). These dimensions of support from government representatives were reported to enhance LDM and can be applied more broadly to other Accord negotiation processes with other Regional Alliances.

## **Relationships between NSW Government and Aboriginal communities**

The negative impact that exclusionary and discriminatory government policies and practices have had on Aboriginal communities is well recognised. Trust from Aboriginal people towards governments at all levels has been minimal and there is ongoing work to be done in relation to building stronger trusting relationships between Aboriginal people and government. Building on existing community governance structures and Aboriginal community strengths through an empowering process will contribute to sustaining these relationships. The structure and processes of LDM are reported to have helped improve relationships between Regional Alliance and government representatives (Katz et al. 2018c).

Implementation of LDM has influenced changes in the relationships between government and Aboriginal communities, with one Regional Alliance representative describing LDM as **"a positive example of how government can work well with Aboriginal communities"** (Smyth & Katz 2019 p.40). Several comments were made commending the LDM process for the way in which it promotes ongoing, open dialogues and strong working relationships between government and Regional Alliances (Katz et al 2018a; Katz et al. 2018b; Katz et al. 2018c). This was seen to be a factor in the enhanced trust and relationships between government and Regional Alliances (Katz et al 2018a; Katz et al. 2018b; Katz et al. 2018c).

Regional Alliance members who attended the LDM Partnership and Collaboration Conference in 2017 confirmed they were experiencing a shift in their relationships with NSW government services, from that of provider-recipient to a true partnership (AANSW 2017b pg. 5).

For some Regional Alliance and community members, improved relationships between government and the Aboriginal community allows for Aboriginal people to participate in meaningful decision-making processes about government services within their community (AANSW 2017b pg.4). It is important to note that the respectful and professional manner in which the Accord negotiations were facilitated contributed to the strengthening of working relationships (CIRCA 2015 pg. 13; Smyth & Katz 2019 pg. 31).

## Contributions to self-determination

As a governance mechanism, LDM is seen to be very progressive and advanced in terms of facilitating a concrete expression of self-determination in Australia (Katz et al. 2018a). It enables Aboriginal communities to engage directly with government representatives about their communities' needs regarding service delivery. Previously, such opportunities did not exist (Katz et al. 2018a). This kind of engagement with government allows for Aboriginal communities (through representatives involved in the Accord negotiations) to negotiate priorities regarding service delivery and ensure they meet local needs (Katz et al. 2018a pg. 13). This is also strengthened through Aboriginal communities being able to develop relationships and effective lines of communication with government (Katz et al 2018a).

The potential for LDM to underpin the ongoing journey towards self-determination for Aboriginal peoples that is supported by government was recognised as a strength, but only if its structure and processes are successful in fulfilling Accord priorities and addressing community needs (Smyth & Katz 2019). It is important that the community sees evidence of this progressive approach to partnerships between Aboriginal communities and government agencies if it is to have faith in the process and remain committed and engaged in LDM. Ongoing commitment from all stakeholders involved in the processes is critical for Regional Alliances and LDM to adapt and continue to meet the needs of Aboriginal communities as political landscapes change to accommodate policy introductions at the regional and local levels. The proposed *OCHRE* Practice Principles that are yet to be finalised and published add a critical dimension of the cutting-edge nature of LDM as a mechanism that will support expressions of self-determination and agency by Aboriginal communities.



# Opportunities to Strengthen LDM

Participants in LDM evaluations identified many strengths of the LDM process and structure. Howard-Wagner (2022) emphasizes, however, that the LDM principles for negotiating Accords can only deliver if adhered to by participants and that many of the current weaknesses of LDM stem from a failure in this regard.

These failures are rectifiable and should be viewed as opportunities rather than an inherent weakness in the LDM mechanism. This section will report some of the key areas where adherence to the LDM principles and processes is currently falling short. It will also report any opportunities to strengthen the structure of LDM that have been identified by participants in the evaluations to date.

Key opportunities related to how LDM can be strengthened are as follows:

- Ensure that government agencies respond appropriately and act upon the priorities and needs negotiated in the Accords. This needs to be underpinned by a strong commitment by government to ensure their staff change the way they do their business
- Provide increased support and resourcing to ensure LDM can adequately fulfil its objectives. It is important to note that the majority of Aboriginal stakeholders involved in the Alliances volunteer their time, therefore with the right amount of resourcing and support, they stand a better chance of reaching their full potential
- Understand local community governance structures to minimise duplication of efforts and streamline processes where possible. This is particularly important given that Regional Alliances are community led and membership of the various community governance structures are likely to include the same people
- Develop and/or refine effective data and information sharing processes and accountability mechanisms
- Ensuring that there is a clear understanding of roles for the different phases of Accord-negotiations including Government Lead Agency Negotiators and Regional Alliance Negotiators
- Implementing structures as part of LDM and Accord-negotiation phases that enables the shifting of power dynamics between government and Aboriginal stakeholders
- Building the cultural competence of government partners
- Addressing the financial shortfalls with the process including remuneration for Regional Alliance members particularly the Lead Negotiators.

In relation to LDM and Accord negotiations, structural impediments primarily stem from weaknesses in the 'authorising environment', particularly the lack of financial and administrative delegation of Lead Agency Negotiators, who – although they sit at the negotiating table with Regional Alliance Negotiators – lack the capacity to provide legitimacy and support for the priorities of Regional Alliances and their communities. Adding to this, the high turnover of Lead Agency Negotiators also hinders the building of trust and long-term relationships with Regional Alliances. Weaknesses in the Accord-making process itself include:

- the under-funding and under-resourcing of the Accord negotiation process
- the lack of buy-in on the part of NSW Government agencies in terms of redirecting funding to facilitate outcomes aligned with the priorities of Aboriginal Regional Alliances and their communities
- the lack of availability of disaggregated data
- competing NSW Government policies.

### *Discrepancies regarding LDM representation*

The literature raises several interesting points regarding the contradiction in terms relating to local as opposed to regional in the context of decision-making. This discrepancy requires greater communication awareness to show how LDM occurs in different communities and feeds into the broader Regional Alliance and ultimately Accord negotiation processes. The scope of LDM and how it is perceived to focus more on regional issues, rather than local issues, was raised several times (Katz et al. 2018b; Katz 2018a). It was felt that these issues arise due to LDM structures being implemented at a regional scale and Regional Alliances representing large localities due to funding limitations (Katz et al. 2018a; Katz et al. 2018b). Raising awareness of how local community governance structures feed into the Regional Alliance could alleviate misunderstanding that shows how local community issues are included at the regional level and in LDM. For example, the MPRA which is made up the 16 Community Working Parties (CWP). CWPs are the peak local bodies for representation and decision making across the Murdi Paaki region. CWP structure and composition are decided by the communities to suit local ways of engaging and decision making, as are the processes used to give effect to the CWP. While CWP structures vary across communities, each CWP governance model works to a consistent set of values and practices around probity, inclusiveness, and other matters of shared importance. Each CWP is bound by a Charter and Code of Conduct under which it operates. Each CWP's role includes assessing local community development needs, undertaking strategic planning, advocacy, and negotiation, and representing the voice of the community at the regional level (MPRA Lessons Learnt, 2019, p. 14).

The MPRA model is based on equitable representation and participation for all Aboriginal people in the region. The business of the Assembly is conducted to an agreed set of rules led by an Independent Chairperson. The Assembly is authorised to speak on behalf of communities through its relationship with the CWPs (O'Bryan and Thomas, 2022;p25).

### *Opportunities for smaller geographic LDM*

Opportunities for smaller geographic areas to participate in LDM have been supported, with La Perouse Aboriginal Community Alliance (LPACA) being an example of this. Given the urban setting of La Perouse, it is assumed that La Perouse LDM would be discussing issues of concern from neighboring suburbs as Aboriginal services are spread across several suburbs. This is an important point to consider in relation to regional/rural versus metropolitan LDM sites and ensuring that LDM has the potential to reflect the dynamics of the area being proposed by community.

Whilst most of the Regional Alliances are in regional/rural/remote NSW, there are now Sydney based metropolitan Alliances. These different types of LDM structures demonstrate that the model can be applied across various geographical settings, which was the original representational framing of LDM, but that is the elements of LDM, and the Accord negotiation phases that provides the new way of doing business with government agencies.

It is likely that the number of Regional Alliances covering smaller localities will increase as the precedent has been set by the metropolitan LDM Alliances and the options being put forward are numerous. However, it is recognized that this is dependent on adequate resourcing. It is understood that current Regional Alliances are funded until June 2023 under LDM and they are awaiting decisions pertaining to future funding beyond this date.

### *Authorising environments*

The literature highlights the need to review the 'authorising environment' to identify why it is not operating as intended in relation to the Premier's Memorandum M2015-01-Local Decision Making (NSW Department of Premier and Cabinet, 2015) and the Local Decision Making Policy and Operational Framework (AANSW, 2017b). Improvements to the authorising environment will better enable negotiations of LDM Accords to respond to regional and local contexts and support local communities to make decisions and determine their own priorities, and ultimately, achieve better shared outcomes for Aboriginal communities.

Some LDM participants reported that the responsiveness and flexibility of government representatives need to be improved (Katz et al. 2018b; Katz et al. 2018c). Government needs to think more locally and reflexively about what community needs are and how their work can align with community, which would involve taking the time to understand the local community.

There is a tension relating to confidentiality and the balance needed to keep Aboriginal stakeholders involved in the process where the Accord Negotiators are unable to provide feedback. Community should also be informed about the LDM model and how it works. As the first stage of the *OCHRE* Evaluation found, there was a lack of on-the-ground awareness of LDM (Katz et al. 2018b). It is believed that by ensuring the community and government understand LDM, priorities and outcomes are likely to align more closely with communities' needs (Katz et al. 2018b).

The evaluations of LDM highlight that the local dimension of LDM and governance processes is critical (Katz et al. 2018b; Katz 2018c; Smyth & Katz 2019). Consideration should be made to secure longer term, ongoing funding that would support Regional Alliances to continue not only their work at the regional level, but also to contribute to decision making at a local level.

### *Resourcing and support*

Resourcing is a key challenge to the successful implementation of LDM and the overall effectiveness of the Accord negotiation phases. Significantly, the literature highlights that Regional Alliance Negotiators are not adequately remunerated for the work required to properly participate in Accord negotiations (Howard-Wagner & Harrington, 2022, p. 30; O'Bryan & Thomas 2022, p. 27). Inadequate funding and resourcing also diminish the capacity of Regional Alliances to discharge their responsibilities. As the NSW Ombudsman *OCHRE* Review Report states, 'Aboriginal leaders have consistently argued that the funding available is inadequate for Alliances to discharge their responsibilities under the initiative, and to address the power imbalance between government and Alliance representatives.'

Regional Alliances have recommended additional resources be allocated to assist them in undertaking necessary pre-negotiation work to increase their capacity in the Accord negotiation process including surveying their communities to determine priorities, develop their methodologies of choice, and be innovative.

LDM is recognised as having the potential to support practices striving for self-determination and deliver on several *OCHRE* objectives (Katz et al. 2018a). However, in its current form LDM would be unable to adequately do so due to under resourcing. Commonly, many Aboriginal peoples participating in leadership roles do so on a voluntary basis; participation in LDM is no different. This is not a just or sustainable solution.

As a result, several opportunities and recommendations for increased resourcing and support have been identified:

- Ensure Regional Alliances and government departments have adequate resourcing to account for the time-consuming nature of negotiations, particularly the Aboriginal members of the Regional Alliances (Smyth & Katz 2019; CIRCA 2015)
- Improve Regional Alliance resources to enable better accountability / communication channels to community (AANSW 2017b; Katz et al. 2018a)
- Improve strategic approaches to support for Regional Alliances (AANSW 2017b; Smyth & Katz 2019)
- Strengthen support and guidance across LDM processes, particularly in preparing Statements of Claim (CIRCA 2015; Smyth & Katz 2019). Schwab (2021 p.18) emphasises the critical importance of guidance and support for the Regional Alliances at the stage of crafting recommendations to government so that recommendations are strategic and targeted and in an actionable form and do not get discarded for being too generic.

The NSW Coalition of Aboriginal Regional Alliances (NCARA) Accord was the first multi-region Accord negotiated under LDM. The Agreement jointly commits both parties to work together to support, renew and return Aboriginal peoples to prosperity. The primary focus of the NCARA Accord is the wellbeing and prosperity of Aboriginal peoples and communities. In terms of opportunities to improve resourcing and support that ultimately leads to sustainability, across the overall Regional Alliance network, considerations need to be made as to where the responsibility for LDM should be placed. It was felt that NCARA needs to be strategically positioned to attract sustained and whole of government support (NCARA 2018). Providing adequate funding for NCARA, as an existing state-wide representative body could assist with helping to address resourcing discrepancies in improving Aboriginal service delivery.

### *Overlaps between existing Governance structures and LDM*

Several concerns were raised through the evaluation regarding the LDM model and how it has the potential to overlap with existing local governance structures (Katz et al 2018a; Katz et al. 2018b). More recent reports however (2022 LDM Accord negotiation evaluation reports) point out that a key strength of LDM is its ability to coordinate input from a range of local Aboriginal organisations in that region, including regionally based peak bodies (e.g. Local Aboriginal Land Councils (LALCs), Aboriginal Medical Services (AMS), etc) as well as other unique local organisations. This can result in a cross-sector, synergistic approach with wrap-around services being provided to community members (e.g. Howard-Wagner & Harrington 2022). The literature notes recommendations for AANSW to invest in and support Regional Alliances to host regional workshops on the ground to assist Regional Alliances to 'actively work with existing Aboriginal peak bodies and community organisations in their regions' (LDM Policy and Operational Framework, AANSW, 2017b, p. 5). This may include funding and other support to host and facilitate the workshops to allow 'negotiation with other bodies and organisations to decide who takes the lead on certain issues and to scope their decision-making powers and influence. This approach will assist with avoiding overlaps between existing and new governance structures and LDM.

Some Regional Alliance community members felt that LDM and NSW Government were imposing certain structures onto Aboriginal communities and **“stepping over”** existing governance mechanisms such as LALCs. Katz et al. 2018b pg. 32). LALCs, in essence, were compared to Community Working Parties: **“So, the decision making should be left to the Land Council, so then you wouldn't have all this other Community Working Party stuff and so forth. Because the Community Working Party is no different to any Land Council board of directors or anything making a decision.”** [Community member, as cited in Katz et al. 2018b pg. 32]

A key difference between LDM and other community governance is that through LDM, local-regional Aboriginal organisations have the opportunity to connect with high-level government decision makers. An additional positive of the LDM and Accord negotiation processes is that it facilitates long-term working relationships. This was particularly evident in MPRA Accord II, where relationships established and tested over time were identified as building trust and ensuring the accountability of government. Similarly, NSW Government agencies and Lead Agency Negotiators reflected on the need to build long-term, mutually beneficial relationships between NSW Government agencies and Aboriginal Regional Alliances. Indeed, improving the relationship between government and community was identified by all parties as the greatest benefit of LDM, and the most effective mechanism to drive change.

### *LDM structure and processes*

Whilst several strengths have been identified across LDM structures and processes, there are opportunities to further strengthen LDM, particularly the advocacy and decision-making roles of Regional Alliance representatives, and data collection and sharing processes. It was reported that Regional Alliance representatives felt that they lacked the “power” in negotiations as Government “had all the data/information” (Smyth & Katz 2019 pg. 31). Government needs to consider how they can improve data and information sharing processes.

The NSW Data strategy through its four actionable and guiding complementary themes supports the process of increased information sharing and should be applied in LDM:

- Accelerating actionable insights
- Treating data as an asset
- Strengthening transparency and trust
- Fostering culture, leadership and capability.

Regional Alliances would benefit from capacity building to improve negotiation processes (Katz et al. 2018a). Suggested training could be in areas such as in different areas such as Agile Leadership, Intercultural Engagement, Business Administration and Influential Communication, all of which is critical to successful discussions and negotiations between Government agencies and the Regional Alliances. Government representatives need to build their capacity around cultural competency, cultural safety and understanding of local issues (Katz et al. 2018b).

In terms of LDM Accord negotiations, there is a need to ensure that government representatives with decision making authority are consistently involved (Smyth & Katz 2019). Some LDM participants reported that individuals involved in negotiations on behalf of government did not always have the authority and expertise to effectively engage in negotiations (Smyth & Katz 2019). It was felt that such limitations wasted time and impeded the ability to make decisions that rely on flexible and innovative responses to emerging issues (Smyth & Katz 2019; CIRCA 2015). This is viewed as disrespect or



disregard to the Aboriginal representatives who sit at the decision-making table and come with the authority to make decisions. It will be critical to building trust and maintaining professional and respectful relationships to ensure that all government representatives that participate in LDM have the correct level of authority to contribute to decisions and have the authority to negotiate agreements with the Regional Alliances.

LDM participants feel that **“Government partners cannot be empowered to innovate and do things differently”** without accountability and incentive structures to support LDM and its goals (AANSW 2017b pg. 18). However, efforts to strengthen accountability are impacted by lack of resourcing (AANSW 2017b). This lack of funding and resourcing could affect the ability for Regional Alliances to participate in activities and/or governance processes that could hold government to account.

Some processes across LDM were felt to require enhancement and streamlining. This was particularly in relation to negotiation processes, where some Alliance members felt that the process was “very protracted” (Smyth & Katz 2019, p. 41), leading to a loss of momentum. However, there were other aspects noted in the literature that identified that structural constraints and systemic biases exist with and in the ‘authorising environment’.

It was viewed that these structural impediments and systemic biases potentially hinder and weaken Accord negotiation as a mechanism of agreement making. Such processes resulted in Alliance members experiencing frustrations and perceiving limitations in the way that meeting processes were conducted, such as circulating relevant documents ie meeting minutes and agreed actions (Smyth & Katz 2019). In other evaluations, it found that Lead Agency Negotiators often fell into a ‘business as usual’ mindset, failing to provide adequate data and/or ideas to help generate possible new approaches to service delivery. The failure of the NSW Government to sign Accord Schedules in a timely manner resulted in a loss of faith in the LDM process. This is a common issue across several Regional Alliances. Yet despite these shortcomings, Regional Alliance delegates reported that working together with representatives from across the region and with Lead Agency Negotiators had been an empowering process (O’Bryan and Thomas, 2022;p20).

At times, disruptions during negotiation processes were felt to hinder the ability to make progress which runs the risk that **“a new government could argue that the LDM process had been ineffective and abandon it.”** (Smyth & Katz 2019, p.26). Therefore, there is opportunity to review LDM and Accord negotiation processes to ensure they comprehensively cover issues relevant to their communities but also strive for transformational change in their areas.

### *Ensuring certainty in the LDM process*

This section has identified several opportunities to strengthen the LDM process. These are important factors that need to be addressed for LDM to deliver on its potential. LDM seeks to offer a new way of doing business with Aboriginal communities. Accordingly, it is dependent on a significant transformation of attitudes, assumptions and long-established processes.

It takes time to achieve familiarity with new ways of doing things, to understand their implications for old ways of doing things and to achieve the accompanying shifts in attitude and approach on which LDM's ability to deliver on its key outcomes is dependent. It is critical that LDM be given time and stability as a policy to fully unfold and evolve.

This can be delivered by legislating the LDM process to deliver certainty; adequately resourcing the LDM process; and ensuring LDM is given the time it needs to be understood by all stakeholders and can evolve where needed. Constant policy flux compromises Aboriginal agency reduces trust in government and inhibits willingness by Aboriginal communities to invest time and energy in the next new thing (Schwab 2021, p.14). Outlined in Part B of the Queensland Productivity Commission's report on service delivery in remote and discrete Aboriginal and Torres Strait Islander communities (2017) is a series of approaches that will support the capacity for LDM initiatives to enjoy long-term existence. Approaches include commitment from government to a new way of working, strong government leadership through champions and the potential for long-term pooled funding opportunities.

LDM is an established process with the first Accord being signed by MPRA in 2015. Since then LDM and Accord-negotiation processes have garnered Aboriginal community support where there is awareness and understanding of it. If it is to deliver an environment supportive of Aboriginal self-determination, then it must be given the time, space and resources to pursue multiple cycles of planning, action and reflection that will permit the significant structural, procedural and attitudinal changes to which it aspires to occur.

## Transferable Learnings from LDM

This section reports the lessons learned from LDM that are transferrable to partnership and agreement making across government. Drawing on existing evaluations and reports in this way to inform other policy settings is important for minimising consultation fatigue.

Included in this section are also findings about changes in the approach and structures of government that will help to eliminate systemic institutional bias and advance self-determination. These findings also support implementation of Priority Reform Three of CtG which relates to the transformation of government organizations. It should be noted that changes to government protocols and processes have a resourcing dimension that impacts on the quality and sustainability of work being undertaken through LDM and Accord-negotiations. Although LDM is aiming for equal partnership, government structures, timeframes and processes still drive many aspects of the process that continue to have inequity and power imbalances. Accordingly, structural reform considerations are of critical importance: "Generally, there is a tendency for government programs to be transactional rather than transformative and 'working differently' requires a major shift in thinking and working" (Schwab 2021 p14).

Howard-Wagner observes that 'without efforts to change the way NSW Government agencies and public officials do business, power imbalances occur, trust-building is made more difficult, and there is potential for harm to be done. What's more, a business-as-usual approach inhibits the Accord negotiation processes from achieving the intended aims of co-designing government services, empowering Regional Alliances, and creating innovative and holistic solutions. Creating a fair and equitable 'negotiating table' begins with accepting and appreciating the expertise, culture, experiences, and knowledge of Regional Alliance negotiators' (Howard-Wagner et al 2022 p.11).

The following section outlines lessons learned emanating from the literature. Some of these do not require deep structural change or resource redistribution and have the potential to be implemented immediately, whilst others require a longer timeframe to work through with Aboriginal communities:

### *Trust and Sustainability*

**The importance of timely follow through.** The trust that is built from more equitable partnerships and decision-making processes is only sustained if those decisions are followed up by the agreed actions and evidence of change on the ground.

**Adequate time** needs to be allowed for preparation and consultations, while also avoiding delays caused by outside factors, such as internal government processes or lack of prioritising of LDM.

**Legislate LDM** to ensure funding, continuity, and the prioritisation and enforceability of its processes and outcomes across government (NCARA 2018, pg. 11). Agreed Accord processes and policy intentions are sometimes trumped by other government policies and priorities (Howard-Wagner 2022 p12).

**Ensuring a faster turnaround by Government on implementing decisions** (Katz et al. 2018a p.i) lends itself to building trust (Howard-Wagner 2022 p11). Schedules have remained unsigned for long periods of time (Howard-Wagner). Aboriginal stakeholders want to have confidence in the process, which requires timely responses.

**Stronger internal government communication and consistency, including avoiding staff turnover** (Howard Wagner 2022 p12) will contribute to ongoing trust.

Ensure that **government negotiators are impartial, professional, committed, confident, diligent, well informed, well connected and authorised** to make decisions (AANSW 2017b; Katz et al. 2018a; Smyth & Katz 2019) (Howard-Wagner 2022 p12).

Ensure **flexible approaches, innovative thinking and agile government funding and policy arrangements** that will support readiness to shift established policy (allowing time and resources for this; senior decision makers directly involved etc) (AANSW 2017b pg. 27) (CIRCA 2015 pg. 16). This is required under the Premier's memorandum but not always adhered to (Howard-Wagner 2022 p 11). It may be that public officials can rationalise doing business as usual, and/or dismissing the views of Aboriginal Regional Alliance Negotiators, because:

- Alliance priorities conflict with the data that agencies hold or with existing policies or funding priorities of an NSW Government agency (Howard-Wagner 2022)
- Lead Agency Negotiators, and public officials more widely, privilege their views or even dismiss the views of Regional Alliances and Regional Alliance Negotiators (Howard-Wagner 2022).

As the process requires a whole of government response, the opportunity to establish **mechanisms for integrated cross-agency responses, rather than siloed responses**, provides for efficiency and greater collaboration in addressing issues holistically (AANSW 2017b pg. 27).

### *Resource allocation*

**Provide adequate resourcing of Aboriginal bodies** to level the playing field with government participants. This includes specific tabled remuneration arrangements that compensate volunteers for unpaid time invested by participants, capacity building and expert advisors. This is needed to support preparations for agreement making spaces and effective participation in them as well as feeding back to the local communities the Alliances represent.

**Resourcing of Aboriginal communities to establish or strengthen working governance models that are grassroots based, without imposing a one size fits all approach.** For example, the MPRA offers a working model of effective partnership due to its clear lines of authority and strong leadership established from the grassroots over many years. Similarly, the literature notes that the resourcing of Regional Alliances can mitigate the power imbalance with government (Smyth & Katz 2019 pg. 31) (CIRCA 2015 pg. 13) (Smyth & Katz 2019 pg. 4 & 31) (AANSW 2017b pg. 15).

Government officials are paid to participate (Smyth & Katz 2019 p 4 and 31) and exposed to more professional development (CIRCA 2015) than Alliance representatives.

**Leveraging procurement** to support greater participation of Aboriginal community in service design and delivery (NCARA 2018 p.1). Adopting an affirmative action agenda across government procurement which bolsters Aboriginal community enterprise in key sectors such as health, community services, employment, economic development and cultural affirmation.

**Implement structures and resources across government that support an ongoing commitment to LDM:** Funding for government agencies to give adequate time to the Accord making process (legislating LDM would support this) (Katz et al. 2018a p.i) (Smyth & Katz 2019 p2-3). Agreed Accord processes and policy intentions are sometimes trumped by other government policies and priorities (Howard- Wagner 2022:12).

### *Policy Structures*

Ensure that the processes that outline agreement making and partnership structures benefit from **clear lines of authority** for Aboriginal community representatives, which facilitates a faster, more streamlined process.

**OCHRE Practice Principles:** The expeditious application of the OCHRE Practice Principles across all policy and practice areas in which government engages with Aboriginal people and communities. The OCHRE principles are 'principles of relationship resetting' (forthcoming p.1). They affirm Aboriginal sovereignty and self-determination. We suggest a review of all current policy and practice through the lens of the OCHRE principles.

### **Consider NZ model for accountability to diverse local governance**

**models** which unambiguously positions public accountability being about governments demonstrating their competence, reliability and honesty in their use of public money and other public resources.

#### *Data Sharing*

**Providing platforms to enable ease of access to and sharing of data** and other relevant information with Aboriginal decision-making partners is critical to the capacity of Regional Alliances to negotiate outcomes on behalf of communities (Howard-Wagner 2022 p.12). Lack of sharing exacerbates power differentials. Ensure that data collection is in line with First Nations data collection priorities and improved data and information sharing is enabled by changed government protocols and processes around data collection and sharing (NIAA 2020, pg. 6).

#### *Competency*

**Monitor Government representation to ensure that those involved are committed** to the process, that they understand it as well as its underlying principles of self-determination, are open to changing how government does business with Aboriginal communities and, critically, be as senior as possible with decision-making authority.

**Build government staff capacity in working strategically** with Aboriginal communities to ensure that the corporate memory and relationships are sustained, which is often impacted by staff turnover and the potential for loss of corporate memory, relationships, and understanding of the process, context and issues.

**Undertake regular check-ins** to ensure everyone involved in the process has competence in the LDM framework and clearly understands its process, aims, scope and roles (Katz et al. 2018b pg. 34) (Katz et al. 2018a p.i).

**Improving attitudes and approaches of government participants** through cultural competence (Howard-Wagner 2022 p12). Lead Agency Negotiators should better understand Aboriginal protocols around engagement, and Accord confidentiality agreements should not conflict with Aboriginal forms of accountability (Katz et al. 2018a p.i). All engagement to be informed by *OCHRE* Practice Principles.

#### *Transparency*

**Continue conducting deliberations in an open forum and with observers**, as this sustains and enhances transparency in the process.

The use of an **independent facilitator is a strong support to the process**.

**Incentive and accountability structures** for government partners (services) to do things differently (AANSW 2017b pg. 18)( AANSW 2022 p29),

## Alignment of CtG 2020 and LDM

The 2020 National Partnership Agreement on Closing the Gap (CtG) marks "an unprecedented shift in the way governments work, by encompassing shared decision-making on the design, implementation, monitoring and evaluation of policies and programs to improve life outcomes for Aboriginal and Torres Strait Islander people" (DPC 2020, p.2). CtG also introduced an increased emphasis on place-based programming through the establishment of place-based partnerships with First Nations community local governance structures (DPC 2020, Clause 30). These developments in the national Aboriginal affairs arena occurred several years after the establishment of LDM in NSW. The CtG 2020 partnership and agreement making framework, most notably as outlined in Priority Reform One, mirrors many aspects of LDM's aims and principles of operation. Both seek to advance local/place- based partnerships in order to support service delivery that is responsive to local knowledge, priorities, contexts and needs. This is in response to the established principle that self-determination is a critical factor in advancing positive outcomes for Aboriginal people (AANSW 2017a p.4; DPC 2020 p.2).

If implemented in a siloed approach, and without strategic collaboration, then the strong similarities in approach between the two frameworks create the risk of duplicate and overlapping structures during their implementation. The NSW CtG Implementation Plan acknowledges that this kind of duplication creates confusion and places an unhelpful administrative burden on Aboriginal communities (AANSW 2022, p.21). This does not mean that LDM has been rendered redundant by this development in the national policy landscape. Our analysis indicates that both CtG 2020 and LDM have a key role to play in delivery of the CtG 2020 targets in NSW and of positive outcomes for First Nations peoples more broadly. This section reports that, with the right approach commitment to innovation, a continued appetite to work flexibly within a transformative mindset and some strategic investment in LDM. LDM and CtG 2020 can operate powerfully as mutually supportive frameworks that capitalise on their similarities and differences.

This section outlines how LDM directly and indirectly supports the delivery of the outcomes of CtG, as per Clause 17 of the National Partnership Agreement on CtG. There are strong and overt parallels in the CtG 2020 and LDM frameworks. They have almost identical shared aims and goals in relation to transforming the way in which government does business with Aboriginal peoples. It begins by identifying the commonalities of the two frameworks and how these are mutually supportive. It then identifies some of the differences of the two frameworks and how they are complementary. Finally, it considers how LDM can be strengthened and evolved to better support CtG going forwards.

Local Decision Making	National Agreement on CtG 2020
...fundamentally and positively change the relationship between Aboriginal communities and government...	...fundamentally change the way governments work with Aboriginal peoples, communities and organisations... (DPC 2020, p. 2)
...enable Aboriginal communities to participate fully in decision making concerning service design and delivery... (AANSW 2017a p.4; Durney, A 2020, p.1)	People are empowered to share decision-making authority with governments to accelerate policy and place-based progress on Closing the Gap through formal partnership arrangements. (DPC 2020, p.3)

Action	LDM	CtG 2020
Strengthening relationships between Aboriginal communities and Government	AANSW 2017a p8	AANSW 2022 p.12
Supporting Aboriginal governance at the regional and local levels	AANSW 2017a p8	DPC 2020 Clauses 33(c) & (d)
Building community capacity to work in partnership with government/stakeholders and increase decision-making powers.	AANSW 2017a p8	DPC 2020 Clauses 17a and 33(d)
Building the capacity of government to work in partnership with communities	AANSW 2017a p9	DPC 2020 Clause 17c; Priority Reform 3; AANSW, 2022 p.12
Negotiating and addressing priorities through consensus decision making	AANSW 2017a p9	AANSW 2022 p.12; DPC 2020 Clause 17(a) and 28.

Accordingly, LDM directly supports the delivery of CtG outcomes simply by pursuing its own deliverables.



## **LDM and CtG Priority Reform One Strong Partnership Elements**

Priority Reform One of CtG relates to the establishment of formal partnerships for shared decision-making that are responsive to local priorities. Clause 30b establishes place-based partnerships as one of the two types of partnerships to be pursued. Place-based partnerships are “based on a specific region, between government and Aboriginal and Torres Strait Islander representatives, and others by agreement”.

The intention, as outlined under Clause 31 is to enable First Nations people to drive the outcomes for their communities through the negotiation with government of place-based strategies. It is about establishing a framework for the delivery of CtG that is aligned with the principles of self-determination. This is in light of the evidence that self-determination is critical to the effective achievement of positive outcomes for Aboriginal peoples, including the CtG socio-economic targets. The LDM Accord process was established for the same reasons and is explicitly place-based (AANSW 2017a p.5). There are direct and strong parallels between the two frameworks.

The jurisdictional actions to advance Priority Reform One acknowledge that shared decision-making structures already exist in many places. Clause 34 explicitly states that actions to advance place-based partnerships under Priority Reform One are ‘not intended to replace these arrangements, but rather build on these successes, and expand and strengthen shared decision-making arrangements’. These are outlined in Clause 32.

The table below demonstrates that LDM directly upholds these strong partnership elements in its design. Early evaluations of LDM indicate that it is also directly upholding many of these strong partnership elements in its delivery, while also acknowledging that this is an ongoing and evolving process and there are many opportunities for improvement.

**Table One: Comparison of partnership elements of CtG and LDM**

CtG – Reform Priority One	LDM
<p>32a Partnerships are accountable and representative and are between:</p> <ul style="list-style-type: none"> <li>i. Aboriginal and Torres Strait Islander people, where participation in decision-making is done by Aboriginal and Torres Strait Islander people appointed by Aboriginal and Torres Strait Islander people in a transparent way, based on their own structures and where they are accountable to their own organisations and communities</li> <li>ii. up to three levels of government, where government representatives have negotiating and decision-making authority relevant to the partnership context</li> <li>iii. other parties as agreed by the Aboriginal and Torres Strait Islander representatives and governments.</li> </ul>	<p>Under the LDM Policy and Operational Framework 'Aboriginal people have the right to determine their own governance and decision-making structures in accordance with their customs, traditions and in the best interests of their community' (AANSW 2017a p.6 and p.12).</p> <p>The Premiers Memorandum states that "NSW agency engagement with LDM regional alliances is to be conducted by senior officers with sufficient delegation and authority" (DPC 2015). The evaluation of the IWAAC Accord process reported that a strength of the process was the participation of key people and departments in the process (Smyth &amp; Katz 2019 p. 25).</p>
<p>32b A formal agreement in place, that is signed by all parties and:</p> <ul style="list-style-type: none"> <li>i. defines who the parties are, what their roles are, what the purpose and objectives of the partnership are, what is in scope of shared decision-making, and what are the reporting arrangements, timeframes, and monitoring, review and dispute mechanisms</li> <li>ii. is structured in a way that allows Aboriginal and Torres Strait Islander parties to agree on the agenda for the discussions that lead to any decisions</li> <li>iii. is made public and easily accessible</li> <li>iv. is protected in state, territory and national legislation where appropriate.</li> </ul>	<p>The NSW Government and participating LDM Regional Alliances will establish formal and binding agreements, known as Accords. (DPC 2015) The Accords will define the relationship between government and participating Aboriginal communities. Accords include negotiated and agreed priorities, key actions to achieve desired outcomes, timeframes, resources, responsibilities and define what success will look like (AANSW 2017a p.5).</p> <p>The Regional Alliances set the initial priorities for discussion via the Statement of Claim (AANSW 2017a p.14 and 23).</p> <p>Regional Alliances and NSW Government have identified the need for a long- term commitment to Local Decision Making, legislation has been proposed to embed this commitment (AANSW 2017a p.25).</p>

CtG – Reform Priority One	LDM
<p>32c Decision-making is shared between government and Aboriginal and Torres Strait Islander people. Shared decision-making is:</p> <ul style="list-style-type: none"> <li>i. by consensus, where the voices of Aboriginal and Torres Strait Islander parties hold as much weight as the governments</li> <li>ii. transparent, where matters for decision are in terms that are easily understood by all parties and where there is enough information and time to understand the implications of the decision</li> <li>iii. where Aboriginal and Torres Strait Islander representatives can speak without fear of reprisals or repercussions</li> </ul>	<p>The LDM Policy and Operational Framework states that its purpose is to “enable Aboriginal communities to participate fully in decision making concerning service design and delivery” (AANSW 2017a p.4). <i>OCHRE</i> Practice Principle One emphasises shared decision making (AANSW forthcoming). Howard-Wagners’s 2022 evaluation of the Accord making process found that ‘the negotiation of Accords, and Local Decision Making as a whole, promote greater involvement of Aboriginal people in priority setting and decision-making regarding how government programs and services are conceived, developed, and implemented’. (Howard-Wagner et al. 2022, p.9).</p> <p>The LDM Policy and Operational Framework states that Accord priorities are to be negotiated and agreed (AANSW 2017a p.5).</p> <p>The LDM Policy and Operational Framework states that government must promote respectful and transparent dealings in the Accord making process (AANSW 2017a p.4) and to provide relevant information and data in a timely way (DPC 2015).</p> <p>Participants in the Accord process reported that they experienced it as a ‘professional, transparent and structured process’ (CIRCA 2015 p.ii).</p> <p>The Premier’s Memorandum and the LDM Policy and Operational Framework speak to “open” and “good faith” negotiations, enabling full participation by Aboriginal communities in decision making and to working “respectfully, constructively and cooperatively” with the Regional Alliances (AANSW 2017a p4; DPC 2015).</p> <p><i>OCHRE</i> Practice Principle Three emphasises cultural safety and trauma informed engagement in negotiation spaces (AANSW forthcoming).</p>

CtG – Reform Priority One	LDM
<p>iv. where a wide variety of groups of Aboriginal and Torres Strait Islander people, including women, young people, Elders, and Aboriginal and Torres Strait Islander people with a disability can have their voice heard</p>	<p>The LDM framework explicitly seeks to promote the participation of Aboriginal people residing in LDM locations (AANSW 2017a p.8).</p> <p><i>OCHRE</i> Practice Principle Two emphasises the importance of recognising the diversity of viewpoints in the Aboriginal community and of engaging with the full diversity of the Aboriginal community (AANSW forthcoming).</p>
<p>v. where self-determination is supported, and Aboriginal and Torres Strait Islander lived experience is understood and respected</p>	<p>The LDM Policy and Operational Framework explicitly recognises the principles of self-determination as articulated in the UN Declaration on the Rights of Indigenous Peoples and aspects self-determination are explicitly recognised and embedded in LDM.</p> <p>The Policy and Operational Framework further states that the relationship must be governed by the principles of self-determination (AANSW 2017a p. 6). How these principles operate in that relationship is articulated by the <i>OCHRE</i> Practice Principles generally as the first government practice principles in NSW that are consistent with the UN Declaration on the Rights of Indigenous Peoples but <i>OCHRE</i> Principle Four relates specifically to recognising Aboriginal expertise (AANSW forthcoming).</p>
<p>vi. where relevant funding for programs and services align with jointly agreed community priorities, noting governments retain responsibility for funding decisions</p>	<p>The Premier's Memorandum states that NSW Treasury will develop funding models which can be implemented in LDM areas and allow a re-direction of NSW Government resources if required. All funding models should be consistent with individual Accord priorities (DPC 2015).</p> <p>LDM goes further than CtG in that it ultimately seeks to hand over some control of budgets to the Regional Alliances as they demonstrate good governance capabilities (AANSW 2017a p5, p.16 and p.20).</p>
<p>vii. where partnership parties have access to the same data and information, in an easily accessible format, on which any decisions are made.</p>	<p>Agencies are obligated to share service provision and indicator data in a timely way with Aboriginal Regional Alliances (AANSW 2017a p.4) and to ensure Regional Alliances are made aware of NSW Government services currently being delivered to their local Aboriginal community (DPC 2015).</p>

CtG – Reform Priority One	LDM
<p>The Parties recognise that adequate funding is needed to support Aboriginal and Torres Strait Islander parties to be partners with governments in formal partnerships. This includes agreed funding for Aboriginal and Torres Strait Islander parties to:</p> <ol style="list-style-type: none"> <li>engage independent policy advice</li> <li>meet independently of governments to determine their own policy positions</li> <li>support strengthened governance between and across Aboriginal and Torres Strait Islander organisations and parties engage with and seek advice from Aboriginal and Torres Strait Islander people from all relevant groups within affected communities, including but not limited to Elders, Traditional Owners and Native Title Holders.</li> </ol>	<p>Supporting Aboriginal governance at the local and regional levels and building community capacity to work in partnership with government/stakeholders and increase decision-making powers are identified lines of action in the LDM policy and operation framework (AANSW 2017a p8).</p> <p>The policy and operation framework also requires LDM to invest in the capacity of the regional alliances. It states that "Aboriginal Affairs and other agencies may fund capacity strengthening activities including mentoring and training, leadership, financial management and strategic planning and more" (AANSW 2017a p20).</p>

## LDM and CtG Priority Reform One Jurisdictional Actions

### *LDM as a place-based partnership mechanism*

At present LDM directly supports the CtG partnership arrangements at the state level through the participation of NCARA in two of the three levels of Working Groups established under the NSW CtG Implementation Plan (AANSW 2022). The LDM Policy and Operational Framework also acknowledges the overlap. It requires the Regional Alliances to actively work with, rather than compete with, Aboriginal peak bodies in their regions (AANSW 2017a p.5). Some Regional Alliances currently have peak body representation in their membership.

It is clear from the table above that LDM is also well placed to directly support CtG's commitment to establishing and delivering outcomes through place-based partnerships. The NSW CtG Implementation Plan notes that there are already seven LDM Accords formalising agreements on improving local service delivery that reflect Closing the Gap outcomes (AANSW 2022 p. 21).

LDM has the potential to serve as the local place-based partnership mechanism through which CtG meets its place-based partnership commitments in NSW (see for example Howard-Wagner 2022 p11).

This is more a question of adequate resourcing and strengthening of its implementation than of any significant change to the LDM framework.

It is noteworthy that in localities where LDM is known about and understood, it tends to be well received and endorsed by the Aboriginal community (Katz et al 2018a; AANSW 2017b p.4). The suggestion here is not that LDM be reduced to an implementation mechanism for CtG, but that LDM be strengthened and expanded so that CtG and other place-based efforts can be folded in underneath LDM as the primary local decision-making mechanism at the local and regional levels in NSW. The ability to pursue this approach has the potential to lead to long-term transformational change that is sustainable, aligned and is centred on self-determination from a place-based perspective.

The deep parallels and similarities between the two frameworks mean that both frameworks are pushing in the same direction in terms of process and outcomes. It is important however to note that LDM has a stronger focus on self-determination and devolved decision-making from a local and regional level, whereas CtG does not include such a focus to the same extent. It is a national initiative with a less explicit commitment self-determination and the transfer of power and control.

In localities where the LDM governance structure is not deemed suitable to serve as the place-based partnership structure for CtG, then at the very least, strong and strategic communication and information sharing arrangements consistent with the LDM approach should be developed. This kind of collaboration and establishment of clear delineation of roles is required under LDM (AANSW 2017a p5). It will enable the LDM model, and its associated evidence base, to support the advancement of CtG outcomes in that locality and limit confusion in the community, even where LDM is not explicitly implemented. An example of this is highlighted in the recent LDM Accord Negotiation Evaluation reports, which emphasise the ancillary benefits of LDM and that community-government relationships built through LDM were the key factor in success around Covid-19 responses.

### *LDM as a case study/learning site for CTG place-based partnerships*

Clause 34 of the National Partnership Agreement on CtG requires CtG place-based partnerships to 'build on the successes' of existing shared decision-making arrangements. Regardless of whether LDM is adapted and adopted to serve as a place-based partnership mechanism for CtG. LDM supports the partnership elements of CtG as a case study/learning site for the development, operation and refinement of CtG local partnership arrangements.

Evaluations of LDM have found that one of its 'key achievements' is that 'if adhered to, the principles for negotiating Accords offer a best practice model for developing formal partnership arrangements to support Close the Gap in regions and their communities' (Howard-Wagner 2022 p.10).

In addition, the LDM framework commenced implementation several years before CtG adopted the same partnership and shared-decision making approach to delivery of CtG outcomes. This means that LDM is relatively advanced in the implementation of the objectives, decision-making principles and lines of action it shares with CtG.

An evaluation of the CtG 2020 partnership arrangements in NSW was undertaken in 2022 (Murawin 2022). It revealed that the NSW CtG partnership and shared decision-making arrangements are encountering many of the same challenges in their early stages that have been documented in the multiple evaluations undertaken of the LDM Accord making process. Whilst it is recognised that the local contexts vary greatly, there are transferrable learnings from the more advanced LDM space that can facilitate and expedite the implementation of well-functioning partnership and shared decision-making arrangements in the CtG space (Howard-Wagner 2022 p. 12). It can guide efforts to establish place-based partnerships that bypass some of the pitfalls experienced in LDM.

### *Evaluating partnership arrangements*

Under Clause 36 of the National Partnership on CtG, government parties are required to undertake a baseline stocktake and analysis of existing partnership arrangements and their strengths and weaknesses. This is directly supported by the co-designed, rigorous and comprehensive evaluation processes that are built into the LDM model. So too are the annual reports on partnership arrangements required under CtG (Clause 36c). Furthermore, the similarities between CtG and LDM mean that LDM evaluations can also be used to support CtG's commitment to strengthen relationships and show respect to the lived experiences of Aboriginal peoples. Akin to LDM, the CtG framework also requires co-designed evaluation processes (see Clauses 7 and 6g, 121 - 128).

Some of these evaluations will be particular to measuring the delivery of the 17 CtG socio-economic outcomes, but others will explicitly relate to the partnership and shared decision making arrangements. By virtue of the many commonalities in the LDM and CtG frameworks, evaluations of partnership arrangements are likely to explore many similar questions with many of the same community members.

Consultation fatigue in the Aboriginal population is a significant and growing issue. In addition, resentment and loss of trust can occur where there is repeated consultation on the same issues without demonstrated efforts to apply guidance already given. The reports and other documentation generated by LDM can be used to inform the development of CtG partnership arrangements and ensure CtG does not engage in duplicated, demoralising and exhausting consultations with community. They can be used to show that the government values, is listening to and committed to applying the guidance it receives.

### *LDM and CtG differences as complementary and mutually supportive*

Despite the many strong parallels in their respective frameworks, LDM and CtG have several distinct differences. The frameworks do not directly overlap and bring different strengths to bear. Differences can be interpreted as an obstruction to an easy and direct merging of these commonwealth and state policies into a single partnership mechanism for delivery on the ground. At the same time, many of their distinguishing features can be viewed as complementary and mutually supportive. Both CtG and LDM have a key role to play in delivery of all CtG outcomes in NSW. The unique features and strengths of the LDM framework means that it has the potential to fill shortfalls and strengthen weaknesses in CtG processes and serve as a critical support to the delivery of CtG outcomes.

Table 2 below provides a brief overview of some of the differences between the two frameworks:

**Table 2: Overview of differences between CtG and LDM frameworks**

LDM partnerships through Regional Alliances	CTG partnerships through CAPO
Structure is supportive of Aboriginal partners having strong community knowledge.	Structure is supportive of Aboriginal partners having strong policy knowledge.
Broader base of local representation encompassing both individuals and organisational representation through Regional Alliances, including regional CAPO members.	ACCO representation relating to key policy areas through CAPO.
Agile, wrap around and responsive approach to community needs and on-the-ground realities.	Low flexibility approach aligned with government structures focused on 17 CtG targets in siloed policy approach.
Unconstrained by government policy area demarcations and the CtG targets. Strengths based framing. NSW controlled and driven by local and regional NSW contexts and communities; Driven by Aboriginal community timeframes and priorities.	Nationally controlled approach; responsive to priorities set at national level. Deficit framing. Strong accountability frameworks but top down approach and driven by government rather than grassroots.
Designed in line with <i>OCHRE</i> principles and Aboriginal ways of doing business.	<i>OCHRE</i> principles are to inform the delivery of CtG but are not built into structures which remain responsive to government frameworks and timelines which are often dominated by typical government worldviews that can clash with Aboriginal communities' perspectives in relation to timing, priorities etc.



LDM partnerships through Regional Alliances	CTG partnerships through CAPO
Builds on years of community governance work and has been in a process of implementation, evaluation and adaptation for several years.	Relatively young partnership arrangement, local level place-based partnerships to be piloted.
Allows for a higher and increasing degree of expression of self-determination through phased handover of power and control over service design and delivery.	<p>Allows for participation in decision making but within government frameworks with no phased handover of power and control over service design and delivery.</p> <p>Access to large pools of funding for implementation (including for areas in which LDM would be strengthened by stronger resourcing).</p>

By virtue of the particular strengths of LDM listed above, LDM has the potential to provide some important supports to the delivery of the 17 CtG socio-economic outcomes as LDM enables a broader base of grassroots input into the planning and delivery of services involved in advancing some of those outcomes. There are challenges though and government participants in the NSW Partnership Health Check for Closing the Gap reported that the NSW Partnership is not as effective as it could be in representing the community due to only being able to engage with the existing NSW CAPO. This requirement potentially excludes a range of stakeholders from participating in the discussion. Whilst, for NSW CAPO members, NSW Government timeframes and bureaucracy limited their ability to build necessary relationships and effectively engage with community (Murawin 2022 p23).

LDM representation includes organisations and individuals in the community and is less bound by government structures and timeframes, allowing for the full diversity of voices in the community as per *OCHRE* Practice Principle Two (forthcoming) and CtG strong partnership element Clause 32(c)(4). As it is less beholden to government timeframes, it has time to develop relationships, is embedded in local communities thereby capitalising on existing relationships and enables a broader base of community expertise to be tapped into. In this way it can help address shortfalls in local community reach in the current CtG partnership arrangements with CAPO (noting that presently some Regional Alliances are considered by the community to be more regional than local at this point). This is likely to lead to stronger service design and delivery matched to the needs of that locality, and therefore better outcomes, as all relevant stakeholders can be at the table.

Secondly, LDM enables the translation of CtG priorities that align with regional priorities to be implemented in a way that is place-based and responsive to local dynamics. The model is structured such that there is the potential to design responses to community service needs that are not restricted by siloed policy areas in government structures. CtG may be negotiated at the state level but its success in meeting intended outcomes is ultimately dependent on community driven priorities and service provision (NIAA 2020 p.136) which is what LDM is specifically designed to support. LDM can design and deliver wrap around services that traverse multiple policy areas and are responsive to whole of community needs. Furthermore, it can deliver more agile responses to changes on the ground as its priorities are not set at the national level. Where LDM governance models spring out of a diverse local membership, the conversation on the ground can be ongoing rather than being contained within time-constrained and event based formal consultation spaces. This approach is further illustrated by the work outlined in the Review of the Barang Regional Alliance (Howard-Wagner & Harrington 2022).

The LDM model arguably supports a higher and increasing expression of self-determination than the CtG model. Its priorities are explicitly community and grassroots driven, as are its timeframes for decision making. It is designed to transfer ever increasing levels of power and control to the Aboriginal community. Given the emphasis in the research crediting self-determination with more successful outcomes (AANSW 2017a p.4), the greater expression of self-determination supported by the LDM model is likely to support positive outcomes for the Aboriginal community, including across the 17 CtG socio-economic outcomes. This is a significant consideration given the limited progress against CtG targets over many years.

Successful and effective partnership models are dependent on the trust and support of the Aboriginal community. The evidence at this stage is that LDM enjoys the support of the Aboriginal community, particularly in those sections of the community where there is awareness and understanding of it (Katz et al 2018a; AANSW 2017b p.4). Furthermore, LDM is explicitly a strengths-based approach. It seeks to capitalise on strengths within the community (AANSW 2017b p.4) and to embody the *OCHRE* Principles of Practice (AANSW 2022b).

CtG is framed as a deficit-based approach in that it seeks to rectify perceived deficits in the Aboriginal community and its wellbeing. The framing of policy in discourses of Aboriginal deficit is counterproductive. This is not least because of the psychological harm caused by discourses of deficit, their detrimental impact on Aboriginal agency and the unwillingness of Aboriginal peoples to participate in government programs framed by such discourses. It is now well established that strength-based approaches are more likely to be experienced as empowering by First Nations populations (Forde et al 2013; Gorringer et al 2011). The LDM evaluations have identified the strengths-based approach of LDM as one of its assets that has won it community support and engagement (AANSW 2017b p.4). It may be that some elements of the community will be more responsive to initiatives that are overtly strengths-based and that service design and delivery at the local level through LDM structures may support stronger community engagement with programs, policies and service delivery associated with CTG outcomes.

## How can LDM better complement and support CtG

Howard-Wagner's review of the LDM Accord making process notes that, 'if adhered to, the principles for negotiating Accords offers a best practice model for developing formal partnership arrangements to support Closing the Gap in Regions and their communities. While an important mechanism for Aboriginal agreement making and creating formal partnerships, Accord negotiations are presently not adhering to best practice principles, such as negotiating in good faith' (Howard-Wagner et al. 2022, p.12). To maximise its potential to support and complement CtG, LDM resourcing will need to be strengthened in line with Section 5 of this report. It is noted that the requirement that CtG make available a pool of resources for the strengthening of local partnership arrangements could be an opportunity in this regard (DPC 2020 Clause 33).

Although the number of Regional Alliances and Accords under LDM is steadily growing, it has not yet achieved complete coverage of NSW. In order to maximise support for the delivery of CtG's outcomes in all of the ways outlined in this section, Alliance coverage of all regions in NSW will need to be expedited. This is dependent on adequate resourcing.

If it is not viable for LDM to serve as the place-based partnership mechanism for CtG in some or all regions then its contribution to CtG may be strengthened through additional resources and administrative supports from Government to enhance the capacity of Alliances to negotiate solutions to complex problems collaboratively with other decision making entities including CtG and The Voice model. Therefore, enabling the Coordinator of the CtG pilot site to provide regular updates to the Regional Alliances with the view to maximising efforts.

Whilst data collection for the Regional Alliances participating in the LDM process can incorporate CtG measurements, with the caveat that current LDM resources are not diverted to CtG priorities and partnership arrangements – a strong LDM system is critical to the effective delivery of CtG priorities. Government should consider a pool of specific resources to enable LDM Alliances to support CtG as the need arises.

## LDM and The Voice Model

This section draws on analysis of the Indigenous Voice Co-design Interim Report to Government to report how LDM in its current form can support the Voice Model and how it can be strengthened and evolved to support the Voice further by incorporating the draft design and principles proposed in this report.

The Co-Design process for the Voice has identified the importance of local and regional input into national policy and the need for a local governance mechanism to enable this input.

The Voice's key aims, and principles of operation align directly with those of the LDM model.

The draft Voice design states that in setting up models for local and regional input it will not replace or undermine existing structures, which echoes similar statements in the LDM Policy and Operational Framework, and the National Partnership on Closing the Gap. It considers working with local decision-making mechanisms if they are accepted by the community and are working well. Arrangements that become a part of the Local and Regional Voice governance structure must meet minimum expectations (inclusive participation, cultural leadership and transparency, and accountability principles).

LDM has been explicitly identified through the Voice process for consideration as an approach to local governance (noting that it does not currently incorporate all tiers of government in an official capacity).

The Voice seeks a co-design process informed by details of the proposed Regional Partnership interface. LDM is suited to supporting this aspect of the design process.

The Voice is seeking engagement at the local and regional levels with diverse voices, including those who are not currently part of any organisation. The LDM structure allows for the direct participation of individuals rather than ACCO representatives as demonstrated by the MPRA.

The LDM process, which includes the various negotiation phases necessary to make an Accord, has the potential to be a case study for local governance and partnership throughout Australia and can support implementation of The Voice framework at local and regional levels.

### **Strengthening and evolving LDM to support the Voice**

Resolving geographical questions: There is a degree of complexity that arises from the mismatch between the geographical boundaries relied on for various governance purposes. The Voice design is responsive to the three tiers of government, but Regional Alliance catchments do not always align with LGAs. The issues raised by varying boundaries are complex. Even within government, different clusters can use different boundaries from each other. In addition, Regional Alliance boundaries are not always straightforward and clearcut within the Aboriginal community. It will be helpful to explore consistent approaches to boundaries that do not undermine Aboriginal self-determination if the LDM framework is to be an effective mechanism that meets the needs of the Voice framework.

If the LDM framework can be strengthened in line with evaluation feedback, better resourced, broadened in scope and more firmly established in more regions, to align with the 'minimum expectations' of The Voice process (inclusive participation, cultural leadership and transparency, and accountability principles), then it has the potential to serve as the local and regional governance structures the Voice model operates within.

# Recommendations

1. Develop a long-term intergenerational strategy that supports the ongoing maintenance of LDM that includes efforts to increase the number of Regional Alliances across NSW and work in collaboration with CAPO. The intention is to achieve statewide coverage for LDM and agreement-making partnerships between Aboriginal communities and governments that seeks to change the behaviour and attitudes that reinforce 'Business as Usual' approaches and strive for more for innovation and transformational change.
  
2. Work with Closing the Gap partnerships at the national and NSW levels to include Regional Alliances as existing successful governance and representational arrangements able to contribute to Closing the Gap. The NSW Government should advocate to the Commonwealth Government the merits of Regional Alliances in relation to the development of local and regional Voice bodies to support the implementation of the Uluru Statement from the Heart.
  
3. Improve the effectiveness of LDM and the Accord-negotiation phases to support a stronger and unambiguous authorising environment. The authorising environment should enable collaboration and continual improvement of ways of working between all stakeholders involved in LDM and all aspects of Accord-negotiation phases.
  
4. Finalise and publish the *OCHRE* Practice Principles. Ensure that mandatory training is provided to all public officials involved in LDM and Accord-negotiations as a minimum prior to commencing any new work with Regional Alliances. Understanding the Practice Principles are a critical dimension of the cutting-edge nature of LDM as a mechanism that will support expressions of self-determination and agency by Aboriginal communities.

**5.** Strengthen community awareness about the mechanisms of the LDM model to ensure both the community and government understand LDM. This way, the priorities and outcomes are likely to align more closely with communities' needs.

**6.** Provide long term funding to the LDM process to ensure continued successful implementation, including adequate resourcing of Aboriginal bodies to level the playing field with government participants. This includes funding support for unpaid time invested by participants, capacity building and expert advisors. This is needed to support preparations for agreement making spaces, effective participation in them as well as feeding back to the local communities Alliances represent.

**7.** Provide ongoing capacity building for all stakeholders involved in the different areas of LDM to improve negotiation processes through a variety of training relating to conflict resolution, governance, intercultural engagement and negotiation.

**8.** Develop a strategic process for improving information sharing between government and Regional Alliances based on Indigenous Data Sovereignty. Refine and strengthen existing data sharing processes to enhance accountability mechanisms and the decision-making efforts of the Regional Alliances. The development of this process should be informed by the NSW Government Data Strategy, which outlines that:

- Aboriginal peoples have the right to govern the creation, collection, ownership and application of their data
- It is their right to autonomously decide what, how and why data pertaining to them is being collected, access and used.
- They have the right to not only own but also have access to data that is contextualised and disaggregated, that is relevant to their needs and empowers sustainable self-determination and self-governance.

## Conclusion

This report reviews some of the published and unpublished literature on LDM. LDM is a strengths-based 'cutting edge' initiative (NCARA 2018) that aims to transform the working relationship between Aboriginal people and the government in NSW. An important dimension of this transformation is the creation of conditions that support the expression of self-determination by Aboriginal people. This is in response to increasing evidence that self-determination is key to achieving positive outcomes for Aboriginal communities.

The review has shown that the design of LDM is strongly aligned with advancing the conditions for self-determination. It has enjoyed a positive reception in those parts of the community that understand what it is and what it is trying to do. The most recent evaluations of the initiative clearly show that the negotiation of Accords, and LDM as a whole, promote greater involvement of Aboriginal people in priority setting and decision making regarding how government programs and services are conceived, developed, and implemented. Accord negotiation is an important mechanism for agreement making between government and Aboriginal peoples in NSW (Howard Wagner et al 2022). However, these evaluations also emphasise that there is currently a divergence between practice and theory that is compromising the ability of LDM to deliver on its potential and its promises. If this continues, the fledgling trust the Aboriginal community is placing in this process will be damaged.

The report identifies some of the focus areas for strengthening the implementation of LDM going forwards. These include building capacity of both government and regional alliances to understand and apply the process. To some extent this is a resourcing issue. Time and stability is also key. It is critically important that LDM be given the opportunity to unfold through a learning and relationship building process. The Aboriginal community needs to be assured that it is not just another pilot that may or may not continue. The government needs time to learn this new approach and to engage in a conscious, conscientious and ongoing process of structural and cultural adjustments to ensure institutional bias and the inherent power imbalance do not undermine the intentions of LDM. The *OCHRE* Principles of Practice promote a profound shift from 'business as usual'. This will take time, consistent commitment and resources. In this regard, the legislating of LDM may help to enable stability, adequate resources and the prioritisation of LDM processes by government agencies as has been emphasised by NCARA.

The report suggests that strengthening LDM is an important investment that extends beyond the particular focus areas of the *OCHRE* program. Analysis of the CtG agreement and implementation plan and LDM policy and framework documents reveals a clear opportunity for LDM to provide significant support towards the delivery of CtG's priority reforms and outcomes. The unique features of LDM – its agility, flexibility, adaptability, compatibility with Aboriginal ways of doing business, acceptance by the community, broad base of local representation, responsiveness to the local/regional context – bring critical elements to the service delivery necessary to achieve the CtG outcomes. Similarly, the draft Voice design indicates a strong role for a well-functioning LDM mechanism in NSW in this rapidly evolving policy space. There is much potential for these frameworks and initiatives to dovetail with LDM in a mutually supportive way. The fulfilment of this potential is heavily dependent on the continued strengthening, expansion of and investment in the LDM process.

Aboriginal communities across NSW have long strived for self-determination in relation to the right to freely determine their own political, economic and social development as individuals and as a collective. Countless Aboriginal affairs policy frameworks at jurisdictional, national and indeed international level, such as the United Nations Declaration on the Rights of Indigenous Peoples, have articulated the human rights approach to Aboriginal people and their right to self-determine their future.

LDM is an advanced model for furthering this goal and is gathering momentum and experience. It has now been rolled out and tested in several regions and is being established in steadily increasing numbers of localities across NSW. The indications from the literature are that it has potential to go from strength to strength and to deliver on its potential so long as this focus and momentum are maintained and identified weaknesses in implementation are expeditiously and energetically addressed.





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