



## Royal Commission into Aboriginal Deaths in Custody Recommendation

### 312. Amend Aboriginal and Torres Strait Islander Commission legislation

*That the intention of Sections 17 and 18 of the Aboriginal and Torres Strait Islander Commission Act 1989 be clarified, by amendment to the legislation if necessary, in order to facilitate the funding of enterprises which are not necessarily commercially viable on the basis of social development criteria.<sup>1</sup>*

<b>Background<sup>2</sup></b>	<p>The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) recommended expanding economic opportunities for Aboriginal communities, including support for Aboriginal enterprises. Reviews of the Enterprise Program found its effectiveness was limited by confusion between social and commercial goals. Many funded projects were community-based initiatives that were not highly profitable but were vital for employment and essential services in areas with limited labour markets.</p> <p>The Commission recognised this tension and called for clearer legislative support to fund enterprises based on social development outcomes, not just commercial viability.</p>
<b>Intent</b>	Amend Aboriginal and Torres Strait Islander Commission (ATSIC) legislation to enable funding of enterprises with social development objectives.
<b>Responsibility</b>	The Commonwealth Government as ATSIC was under their jurisdiction.
<b>Key action taken</b>	
<b>2005 Review<sup>3</sup></b>	The Victorian Government did not assess Recommendation 312 as it was deemed to be the sole responsibility of the Commonwealth Government.
<b>2018 Review<sup>4</sup></b>	Deloitte concluded that Recommendation 312 was <b>fully implemented</b> through ATSIC's development of the Community Economic Initiatives Scheme which funded projects with a social development focus.
<b>Since then</b>	The <i>Aboriginal and Torres Strait Islander Commission Act 2005</i> (Cth) <sup>5</sup> was introduced to abolish ATSIC and rename the <i>Aboriginal and Torres Strait Islander Commission Act 1989</i> (Cth) as the <i>Aboriginal and Torres Strait Islander Act 2005</i> (Cth). Consequential amendments arising from the abolition of ATSIC included the transfer of ATSIC's assets and liabilities to other agencies,

<sup>1</sup> *Royal Commission into Aboriginal Deaths in Custody* (Final Report, 1991) vol 4, 399 ('RCIADIC').

<sup>2</sup> *Ibid* vol 4.

<sup>3</sup> Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 154-5 ('2005 Review').

<sup>4</sup> Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 645 ('2018 Review').

<sup>5</sup> *Aboriginal and Torres Strait Islander Act 2005* (Commonwealth of Australia) ('*Aboriginal and Torres Strait Islander Act*').

## 312. Amend Aboriginal and Torres Strait Islander Commission legislation

the establishment of a new housing fund to be administered by Indigenous Business Australia, and modification of the role of the Office of Evaluation and Audit.<sup>6</sup>

### Evidence of impact

#### Authorising documents

*Aboriginal and Torres Strait Islander Commission Act 1989 (Cth)*, and *Aboriginal and Torres Strait Islander Commission Act 2005 (Cth)*.

#### Outputs

None identified.

#### Outcomes

None identified.

#### Community views

None identified.

### Related recommendations

#### 2005 Review<sup>7</sup>

#### Recommendation 5

That the Department for Victorian Communities apply the principles enshrined in recommendations 311 to 313 relating to Aboriginal enterprise and developing economic opportunities to its own business enterprise programs and provide a report to the Aboriginal Justice Forum.

That the Victorian Government continue to implement and monitor recommendations 311-313 through any monitoring process established as a consequence of this Review.

### Assessment summary<sup>8</sup>

Recommendation 312 was the responsibility of the Commonwealth Government and therefore outside the scope of this project.

## Bibliography

*Aboriginal and Torres Strait Islander Act 2005* (Commonwealth of Australia)

Meeting with Aboriginal Justice Caucus (Project Team, In person, 26 June 2024)

Meeting with Aboriginal Justice Caucus Working Group (Project Team, Meeting, 13 June 2024)

Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005)

Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018)

*Royal Commission into Aboriginal Deaths in Custody* (Final Report, 1991)

<sup>6</sup> Ibid.

<sup>7</sup> 2005 Review, vol 1, 31-2.

<sup>8</sup> Meeting with Aboriginal Justice Caucus Working Group (Project Team, Meeting, 13 June 2024) ('*Working Group Meeting (13 June 2024)*'); Meeting with Aboriginal Justice Caucus (Project Team, In person, 26 June 2024) ('*Aboriginal Justice Caucus (26 June 2024)*').