7.0

Structural reform
This chapter sets out a proposed structural or institutional reform for changing roles and responsibilities under the service delivery framework. The aim of the reform is to locate decision-making and accountability closer to those affected by service delivery success or failure.

Key points

- The proposed structural change has three key pillars:
  - a transfer of decision-making and accountability to the regions and communities where service users reside
  - changes to the way funding and resourcing of communities occurs by shifting to long-term block funding and delivery of mainstream services through negotiated agreements
  - independent oversight and transparent reporting of progress and outcomes.

- The proposed reform proposes significant changes to roles and responsibilities:
  - Communities will be responsible for determining priorities and services to be delivered
  - Regional bodies will work with and support communities to coordinate service delivery and funding
  - An independent body will oversee reforms, monitor agreements and report on progress.
  - Government will pull back from direct commissioning of services to focus on outcomes.

- More money is not the answer—there needs to be changes to the way services are resourced.
  - Untied, pooled and flexible funding with much longer funding cycles is necessary to give communities and service providers sufficient flexibility to get things done.
  - Mainstream, or government-provided, services should be negotiated with communities.
  - Devolution of decision-making powers, using agreements between government and communities, will enable local decision-making and embed genuine accountability for outcomes.

- Reform will take time and needs to progress at a pace that supports community development and allows stakeholders to learn from failures.

- There will be some transition costs; however, these can be minimised by redeploying existing resourcing.
7.1 The structural reform proposal

At the heart of the reform proposals is a shift in governance away from government and to communities. Government, however, has a very clear role to play, both as an enabler of action and a funder of service delivery. Aboriginal and Torres Strait Islander people will also need to take a greater level of responsibility for the services being provided in their communities.

The structural reform proposal has three key pillars:

- a transfer of decision-making and accountability towards the regions and communities where service users reside
- changes to the way funding and resourcing of communities occurs by shifting to long-term block funding and delivery of mainstream services through negotiated agreements
- independent oversight and reporting of progress and outcomes.

Transfer of decision-making and accountability to regions and communities

Based on the evidence presented to this inquiry, the effectiveness of service delivery can be improved by making significant changes to the way decisions are made in remote and discrete communities. Current and previous approaches to improve service delivery have failed to properly respond to community needs, coordinate services or allow adaptive learning. Even where gains have been made, governance structures have lacked the permanence to bring about the long-term changes required to address Indigenous disadvantage in communities.

Figure 44 Changes to accountability mechanisms and decision-making powers

*Under a post-reform model, decision-making powers for determining service levels (within the constraints of the outcomes and funding set by government), service design, inputs and community-level outcomes would reside with communities.*
Under the current service delivery model, decision-making powers in regards to the allocation of funding, the level of service delivery and how services are delivered reside with government. These decision-making powers, as far as practical, should reside closer to those affected by service delivery.

Rather than making decisions on service delivery, government should aim to set the objectives and outcomes they would like to achieve through the resourcing they provide to remote and discrete communities. These objectives and outcomes can be specified using agreements with communities—once an agreement has been arrived at, the way in which agreed outcomes are to be achieved should be determined by those closest to the problem.

The scope of agreements would include all services delivered in communities, covering:

- mainstream services, which are bound by legislative and other obligations
- Indigenous specific and other services, where there is some discretion for communities to prioritise the level and type of activity.

To support these changes, a reallocation of responsibilities will be required, supported by appropriate risk management. Who undertakes these roles will need to be negotiated between communities and government, and may not be the same for all communities or regions.

**Figure 45 Arrangements to support a transfer of decision-making and accountability**

Agreements underpin the objectives and outcomes desired by government, with communities enabled to determine the best way these will be achieved.
The agreements underpinning the new arrangements should specify:

- **principles**—these might include the way in which the agreement will operate and the manner in which the parties will interact
- **roles**—what role each party will play in future interactions and what decision-making powers and authority each will have
- **objectives**—the purpose of the agreement
- **outcomes**—these should specify the agreed changes that are to be achieved under the agreement, without specifying how they will be achieved
- **timelines**—when the various stages of the agreement will be implemented and when outcomes are expected to be achieved
- **resourcing**—what funding will be made available to support the agreement
- **incentives**—these might include payments for the achievement of outcomes or agreements to move to a subsequent stage of reform after certain milestones are reached
- **duration of the agreement and methods for amending the agreement.**

To facilitate these arrangements, supporting institutions will need to be in place. Many such institutions already exist; others can be adapted from existing institutional structures or consolidated from existing consultation mechanisms. The Commission has not recommended who should perform these functions—as such, the descriptors below are intended to provide an objective description of the institutional functions, not who will undertake these roles.

**Community-level representative bodies (CLRBs)** need to be in place to provide a focus for decision-making for on-the-ground service delivery. These community-level bodies would:

- determine the priorities of the community and establish a community-level plan
- monitor progress against this plan
- manage tenders for services provided by NGOs (unless these are ceded to regional bodies)
- provide a one-stop shop for service providers to undertake community consultation.

Given their small size, most communities will need to work together within regional groupings. This will enable the establishment of capacity, allow economies of scale and form the basis for negotiation with government. These **regional bodies** should be representative of the communities in their respective regions and would:

- provide governance capability, advice and assistance to CLRBs, including for the development of community-level plans
- work with communities to determine region-wide resourcing needs and priorities
- coordinate service delivery across regions, where this can provide efficiency dividends
- work with mainstream service providers to develop regional policy and ensure that community plans are adhered to and service provision to communities is appropriate
- negotiate regional outcomes with government
- monitor progress against plans.
To keep the reforms on track and to provide a mechanism for the dissemination of progress against outcomes, an independent oversight body should be responsible for:

- monitoring and reporting on progress against the agreement
- independent assessment of progress against plans
- the collation and dissemination of information on outcomes and expenditure data on remote and discrete communities to underpin assessment of performance.

The role of the oversight body and how it would work in conjunction with a broader evaluation framework is discussed further later in this chapter.

The Queensland Government’s role would be to:

- establish and negotiate the agreement with regional bodies (and communities), including setting funding levels and agreed principles and outcomes
- deliver mainstream services as negotiated with communities
- maintain the state-wide policy and legislative framework.

### Box 7.1 Community plans

Community-level planning will underpin the delivery of services under the reform proposal. It is envisaged that these plans will be developed within communities with assistance from regional bodies.

It is likely that the community plans will evolve over time; however, they might include the following:

- service delivery priorities
- identification of service gaps
- agreements with mainstream providers on service levels
- agreed timeframes and targets for the achievement of community level outcomes (as identified and negotiated between the CLRBS and regional bodies)
- procurement targets—for example, for Indigenous employment or training outcomes
- agreed methods for reporting on progress towards service delivery outputs and community-level outcomes
- incentive payments to communities on the achievement of key milestones or outcomes.

It would make sense for the community plans to be renewed periodically, say every three years. This would allow for learning by doing, with community plans adapted as new information becomes available and new ideas are developed.

Structural reform is not about establishing new institutions or more bureaucracy. Indeed, existing bodies may perform the functions (Box 7.2). The key is reform to roles and responsibilities, rather than any new architecture.

Once implemented, the reforms should result in a reduction in bureaucracy—a view captured in the Torres Straight Island Regional Council’s (TSIRC) submission:
Currently DATSIP have a formal role within government to lead engagement into the TSIRC region. However, we can capably engage direct with departments on project-delivery in our region. The current arrangement produces yet another layer of bureaucracy and time lag. Funds can be better spent by directly funding TIRSC to resource this work. It would be best to simply engage directly and fund us adequately to support this work. (sub. 12, p. 31)

The governance reform Coalition Executive ... has concerns about the level of funding that is being absorbed into the current governance model, and the financial inefficiencies within this same structure. (sub. 12, p. 12)

Box 7.2 Implementation issues—building on capacity

There will be a range of issues that need to be considered to implement the structural reform, including assigning roles. Communities and the Queensland Government will need to determine what institutions undertake which roles, but existing bodies may assume some or all of the functions.

Community and regional bodies

Community and regional level bodies may be drawn from existing institutions. For example, local councils currently represent their communities in a range of forums and may continue to do so post reforms, if they wish to, and they have the support of the community. Similarly, The Torres Strait Regional Authority already assumes many of the functions of a regional body.

Communities also have a range of community-level representatives. For example, Hope Vale has established a representative body based around family clan groups, as part of a commitment to engage with the Empowered Communities agenda. In the Torres Strait, the TRSA has formal mechanisms for engagement with each of the island communities it represents and works closely with local councils to develop community priority plans (TSRA 2014).

In assigning roles and responsibilities, consideration will need to be given to potential conflicts of interest—for instance, whether local councils should perform the function of CLRBs while they also control community land holdings.

While existing capacity should be developed and built on, this is not to say that current arrangements would not change with the reform—existing mechanisms reflect the current policy framework and may not necessarily be optimal.

For instance, an alternative option is for regional bodies to be managed by a board comprising representatives from communities, government, and the private and non-profit sectors. This might foster collaboration and help to ensure the objectivity of any decisions made by the regional bodies. Under a corporate structure, legislation provides clear direction around corporate governance, including rules for managing conflicts of interest and for managing stakeholder interests.

Oversight

The oversight functions could be undertaken by an existing agency, such as the Queensland Audit Office, Queensland Government Statistician’s Office or Queensland Productivity Commission.

State level negotiations

It may also be useful to have a formal mechanism through which regional bodies could negotiate with the state on issues that affect all remote Aboriginal and Torres Strait Islander communities. This mechanism should fit with any statewide consultation/negotiation processes in place. An Indigenous
Reforms to funding and resourcing arrangements

Key to this reform proposal is a change to the way communities are resourced. While some additional funds may be required to assist with the transition costs, funding for the reforms should be sourced from doing things differently, rather than from major new expenditures.

Achieving better returns on the large investment made by government requires a funding model that supports a service delivery that is adaptive and responsive to the needs of individuals, and supports decision-making by communities and regional bodies.

The Commission proposes that this be achieved by ensuring that resourcing of communities occurs through the agreement of the communities themselves. This means that government should ensure that the way it funds and resources service delivery is consistent with the processes that allow community decision-making.
The funding reform agenda has three key components:

- **First**, a baseline of expenditure should be established for each community—this might include an average of expenditures over a suitable time period (say five years), but should include all expenditures, including head office, policy and coordination function (see Chapter 3) for some guidance on how these expenditures should be estimated. This baseline should form the initial resourcing level for each community and should form the base for future negotiations around funding.

- **Second**, existing government grants should be rolled into a pooled fund to be controlled by regional bodies and the community-level representative bodies (CLRBs).

- **Third**, mechanisms need to be established to allow for coordination of mainstream services through a post-reform structure.

*Figure 46 Funding and resourcing arrangements*

*Funding and resourcing of services needs to support decision-making by communities and ensure that service delivery is accountable to community.*
The key mechanism for the coordination of mainstream services and the distribution of grant monies should be community plans negotiated with each of the CLRBs. These plans would outline each community’s priorities and the progress that each community agrees to achieve over the course of a funding agreement. The regional body would be responsible for negotiating agreements with each of the CLRBs and developing a regionwide plan outlining the funding and provision of service levels into each community over the life of the agreement.

In order to facilitate the coordination of mainstream services, relevant government officers will need to have sufficiently delegated powers to enable them to negotiate with regional bodies and to ensure agreed activities are enacted.

Any conditions, including reporting requirements for grant funding would be set by the regional bodies. Mainstream services would be required to report to the regional bodies and CLRBs in accordance with the negotiated community plans.

Funding agreements between the Queensland Government and the regional bodies should be long-term in nature (10 years) and should be contingent on the regional body successfully negotiating community plans with CLRBs. This would reduce uncertainty and promote long term investment in skills and infrastructure.

The conditions attached to any funding to communities and regional bodies should be reflected in the agreements with government. All parties should consider elements of the policy and service delivery reforms (Chapter 8) that might provide incentives or opportunities to improve outcomes. For example, the use of payment for outcomes, social reinvestments or the use of annuities may be applicable to funding under a post-reform model.

Monitoring and evaluation

In line with the reform proposal, the agreements and community plans, negotiated between government and communities, would play a key role in evaluation and accountability. The plans should set expectations about the outcomes to be achieved, the level of resourcing to be provided and the way services will be delivered.

The agreements and community plans should also set out arrangements for monitoring and evaluation. These should include:

- the measures of progress the community thinks are important
- how progress will be evaluated
- the role the community will play in evaluation
- the expected timeframes for progress
- expectations for over- or underperformance.

In line with the broader reform proposal, regional bodies would play a key role under the proposed reporting and evaluation framework. In the first instance, that government would negotiate with the regional bodies on the outcomes it expects to be delivered in return for resourcing, while the regional bodies would work with CLRBs to develop community plans.

A regional plan should overarch the community plans and specify the outcomes expected to be achieved at a regional level. Regional plans should form the basis for monitoring and reporting of outcomes at a regional level.13

Independent oversight would be a key feature of the monitoring and evaluation framework (Figure 47).

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13 Ideally, community plans would consider all aspects of service delivery; however, there may be services delivered into communities, or outcomes, that are not considered in these plans, particularly early on in the reform process. This should be recognised in any reporting and monitoring framework.
Figure 47 Evaluation framework

Note: For the sake of brevity, regional bodies have been omitted from this diagram. It is intended that the agreement outlined in this diagram would encapsulate both the agreement between the regional bodies and government and the community plans.
Under the proposed monitoring and evaluation framework, an independent oversight body would be responsible for collecting and collating information on community level outcomes. These data and other information should be collected from communities as well as from government, and should be assessed against the community and regional plans.

The regional bodies should be responsible for collecting information on the community-level service outputs and outcomes. This would include collecting information on the community-level outcomes agreed to in the community plans. This information would be provided to the independent oversight body for verification and collation. Mainstream service providers should provide community-level institutional data to the oversight body, which would compile a regular report for each community and region and distribute it to stakeholders.

Once every three years the oversight body should compile a holistic report on progress for remote and discrete communities and for each region. The reporting might include:

- progress against closing the gap targets (or other targets agreed to by COAG)
- other targets identified and agreed to amongst the regional bodies and CLRBs
- other targets the state government requires.

These triennial reports should be made publicly available and would provide information on the reform implementation as well as outcomes across Queensland’s remote and discrete communities. Where possible, the oversight body should use existing survey methodologies and services to ensure that the burden on communities is minimised and data can be compared with state or nationwide datasets. For example, the oversight body could explore working with the Australian Bureau of Statistics to extend the sample size of the Bureau’s National Aboriginal and Torres Strait Islander Social Survey.

Any evaluations of individual programs should be undertaken and funded by the regional bodies on a case-by-case basis as required, or as determined in agreements between the state and a regional body. However, the findings of these evaluations should be made public through the independent body to promote and share lessons learned from practice in service delivery.

It is proposed that the independent oversight body report on agreements made between the regional bodies and government. For example, where agreements include incentive payments on the achievement of milestones or outcomes, an independent assessment may be required to ensure that these milestones have been met, or that key reforms to enable their achievement have been delivered.

The Cape York Institute proposes that agreements should include ‘productivity dividends’ where:

> [u]nder EC it is also suggested that more funding is not what is required, rather Indigenous at a local level must have a far greater say in setting priorities, resource allocation and holding services to account. Under EC in this way a productivity dividend can be produced by reducing inefficient, ineffective and duplicative spending. The productivity dividend can then be redirected into place-based development. (sub. 26, p. 20)

If such a type of arrangements is to be included in the agreements between government and regional bodies, some level of independent oversight and monitoring of expenditures and efficiencies will be required.
Box 7.3 Are the reforms suitable for only remote and discrete Aboriginal and Torres Strait Islander communities?

The reforms outlined here are relevant to the needs to remote and discrete Aboriginal and Torres Strait Islander communities—this reflects the terms of reference for this inquiry.

Nevertheless, many of the issues that we have identified in this report may apply to other communities—particularly those communities that are far removed from government decision-making and are not served well by competitive markets. Walker et al. (2012) discuss many of same governance issues that relate to remote areas in the *Fixing the hole in Australia’s heartland report* and conclude:

> These problems are too often perceived only in the context of the dysfunction of remote Aboriginal settlements and seen therefore as purely ‘Aboriginal’ issues rather than issues of government capability. That is a mistake. Many non-Aboriginal Australians face similar issues as a result of their remote location. (p. 10)

The report’s proposed solutions involve community engagement and decentralised governance.

The NSW Government has been exploring options for strengthening governance capacity and service delivery in far western NSW in the form of the Far West Initiative (NSW Office of Local Government 2016), which proposes an approach to governance that establishes a regional statutory body for the Far West NSW region, with support for local councils. Importantly, none of these local councils are Indigenous although some represent communities with higher than average Aboriginal populations.

The Commission also notes that the Empowered Communities project currently has trial sites in some non-remote regions, including one in inner Sydney.

The Commission has not made any assessment of these initiatives, given they are not within the scope of this inquiry—more research would be required before any definitive conclusions about the applicability of similar reforms in other regions or for other community types.
7.2 How the structural reforms address performance

The table below provides some linkages between the proposed structural reforms and the issues raised in Part A of this report. The table is not intended to provide a complete assessment how reforms will address or improve every aspect of service delivery in communities—rather, it is intended to give readers a feel for the proposed reforms and how they will address underlying problems in the service delivery framework.

Table 18 Links between proposed structural reforms and underlying problems

<table>
<thead>
<tr>
<th>Underlying problem</th>
<th>How the structural reform proposal addresses the problem</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fragmented and inflexible funding</td>
<td>Block funding to regional bodies will reduce funding fragmentation by replacing many of the contracts written by multiple agencies. If the model evolves to include Australian Government involvement, then fragmentation will be further reduced. The agreement between the Queensland Government and the regional bodies should be a negotiated outcomes-based funding model, with significant built-in flexibility regarding in how those outcomes are to be achieved.</td>
</tr>
<tr>
<td>Duplication and overlap</td>
<td>A regional/place-based planning framework should better coordinate the delivery of services across governments. By pooling funding and providing it under a block arrangement, a single body can dispense the funding according to negotiated community plans. Problems with duplication and overlap become clearer at the stage of decision-making.</td>
</tr>
<tr>
<td>Whole-of-government coordination</td>
<td>The reform proposal reduces the structural impediments to whole-of-government coordination by moving much of the coordination task to a body sitting outside government. The place-based and negotiated community plans provide an improved coordination mechanism.</td>
</tr>
<tr>
<td>Short-term contracting and compliance burdens</td>
<td>The agreement between the Queensland Government and regional bodies should be based around long-term funding models with a consistent performance framework. Contracts managed by regional bodies or communities should be more responsive to problems. As the regional body's own funding should be based on a long-term funding framework, this enables regional bodies to vary contract lengths to achieve outcomes.</td>
</tr>
<tr>
<td>Dispersed and weak lines of accountability</td>
<td>Under the proposed model, it should be clearer to community members who is responsible for what. Community input to the regional bodies will give communities greater voice. From the Queensland Government's perspective, the agreement between the government and the regional bodies will establish responsibilities and set out a clear accountability framework. Independent oversight will help to keep stakeholders informed and reforms on track.</td>
</tr>
<tr>
<td>Government as fixer</td>
<td>The agreement with regional bodies should establish respective responsibilities, including the ongoing role of the Queensland Government in respect of the scope of activities transferred to the regional body. As the process of priorities is to be negotiated with communities, this facilitates the government stepping back to an enabling role. While the regional bodies should be accountable for agreed outcomes, the government should similarly be accountable to the regional bodies for its agreed responsibilities.</td>
</tr>
<tr>
<td>Underlying problem</td>
<td>How the structural reform proposal addresses the problem</td>
</tr>
<tr>
<td>--------------------------------------------</td>
<td>--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Incentives problems</td>
<td>Better aligning accountability and decision-making will help to correct the perverse incentives in the current service delivery framework. It will shift service delivery from a supply-driven, siloed approach to one that considers and adapts to the needs of people receiving the services. Independent oversight will ensure there is objective monitoring of outcomes, providing stakeholders with incentives to achieve outcomes and value for money.</td>
</tr>
<tr>
<td>Lack of Indigenous participation</td>
<td>The reform proposal results in Indigenous people’s perspectives being embedded into policy design and delivery. There is an upward accountability mechanism through agreements, but the regional body would have its own commissioning process for agreed responsibilities (needs assessment, service design, monitoring, evaluation and feedback to service improvement).</td>
</tr>
<tr>
<td>Dispersed knowledge and unintended consequences</td>
<td>Reforms enable those closest to the ground to inform, address and avoid unintended consequences by ensuring community voice in decision-making. Acknowledgement is given to the community stakeholders (including on-the-ground service providers) who witness first-hand the problems when services are not delivered in a way that provides value for money to the community or to the Queensland Government on behalf of taxpayers.</td>
</tr>
<tr>
<td>A focus on symptoms rather than underlying causes</td>
<td>The setup of the regional bodies as independent, with a negotiated and transparent agreement with the Queensland Government, will help reduce political and bureaucratic pressures that diverts focus from underlying problems to symptoms of those problems. The reforms provide increased opportunities for the innovative, community-led approaches required to address the underlying causes of community disadvantage and dysfunction. They will also ensure that communities whose interests are served by addressing causal issues are actively involved in keeping things on track.</td>
</tr>
<tr>
<td>Incentives to control costs and adopt best practice</td>
<td>Designing a ‘best practice’ outcomes- and performance-based agreement between the regional bodies and the Queensland Government can use a formal accountability mechanism to improve incentives for ongoing improvements in service delivery. By involving communities, who have a vested interest in addressing the underlying causes of disadvantage, incentives to control service delivery costs over the long term are aligned. Longer funding cycles, combined with independent oversight, will help address concerns about the ability of service providers to engage in adaptive practice.</td>
</tr>
</tbody>
</table>
7.3 What are the risks?

No change is possible without some risk (Shergold 2015). It is impossible to be aware of every piece of information or to understand how every stakeholder will respond to change—these information gaps inevitably introduce risk.

In developing the reform scenario outlined in this chapter, the Commission has tried to hear the views of all relevant stakeholders, and examine all available data and evidence that were publicly available. Despite this, not all evidence is complete or straightforward; also, not all stakeholders voiced their opinions and amongst those that did, not all agreed on a way forward.

The Commission is also cognisant that the reform proposal has not been developed by communities—many would argue this is not an ideal way to develop policy for remote and discrete Aboriginal and Torres Strait Islander communities—and many failed reform agendas that have come before it have done the same thing.

To address these myriad uncertainties, some assessment of the key risks, and how these might be mitigated is needed.

Some key risks are identified below (but it is not a comprehensive list of risks), which are intended solely to stimulate discussion and thinking to facilitate feedback to assist the Commission to prepare its final report.

The problem or the solution is misdiagnosed

As alluded to above, it can be challenging to diagnose a problem from afar: central planning solutions assume a level of understanding of the complexity of problems that rarely holds. This also applies to the recommendations made by this inquiry. To avoid inadvertently throwing the ‘good out with the bad’, there is merit in a status quo or steady-handed approach when faced with significant policy uncertainty.

Alternatively, it is a role of the Commission to set out ‘first best’ solutions even where there may be some uncertainty around those solutions. The risks of a large reform can be minimised if care is taken to ensure that the reform design can complement those policies and programs already in place that are working.

Risks can also be minimised by recognising that the structural reform process, by itself, is unlikely to be the solution to all problems. The next chapter discusses the range of policy tools that can be used to improve service delivery in communities. These should be used in parallel to any structural reform.

Reforms could make things worse

A case could be made that, while policy approaches do wax and wane, progress is being made in an aggregate sense, albeit slowly. Given time, and continued incremental improvements, significant progress in the standard of living of Indigenous peoples is likely. There will be some missteps, but, overall, there is reason to have faith that things are moving forward.

Further, stability in the policy environment allows for individual and community action to find ways to work within or around the system to achieve the things that need to be done. Therefore, attempts to make fundamental structural change or major changes to policies entail significant risk.

The counterargument to this is that gains have been made in spite of the system, rather than because of it, and that reforms provide a better way forward.

There is no straightforward way to address this risk. However, risks can be best managed by ensuring that both the implementation and design of policy reforms are done in close cooperation with communities. This will help ensure that reforms are consistent with what would be accepted by communities and provide practical, workable solutions.
This reform is just another swing in the cycle of failed policy experiments

The literature and history of policy development in Indigenous affairs suggests that it follows a repetitive cycle that discredits everything that came before and replaces it with a 'new model' (Moran 2016).

Reforms will only be successful if they are durable. Many of the problems facing communities are intractable and will only be solved over long time frames (Altman et al. 2008).

Keeping reforms on track long enough to help solve these issues might require a level of bipartisan support: recommending solutions that do not have bipartisan electoral support feeds into the cycle of experimentation, chopping and changing of policies, and the premature cessation of policies.

A commitment to independent monitoring of reform progress will also be key to ensuring the durability of reforms.

First-mover risks

Community-led initiatives are currently being worked through with the Australian Government, but those outcomes, which will be important to any state initiative to undertake major institutional reform, are unknown at this point. There may be strategic value in waiting, while continuing to progress a wide variety of policy reforms.

Of course, if all levels of government took this approach, nothing would ever happen. A sensible approach then would be to work with the Australian government to ensure reform processes are complementary.

Capacity and capability

The reform proposal is reliant on government and communities having the capacity and capability to engage with each other in a meaningful and productive way. This works from both sides.

At the community level, the reforms will need to be aware of the capabilities within communities and the already large burdens being placed on a select few individuals to develop solutions and act as a community voice to government and service providers. Tapping into existing leadership structures and building regional capacity through the regional bodies will be critical to address this concern.

At least as important, is to ensure that government has sufficient capability to engage with communities and Indigenous leadership. The New South Wales experience with its Local Decision Making reforms is enlightening in this regard. Discussions with stakeholders suggested that one the key factors that initially held back the reform process was a lack of capability on the government’s side. An evaluation of the implementation suggested that this was at least partly due to government officers not having sufficiently delegated powers to effectively engage with stakeholders (Aboriginal Affairs (NSW) 2012).

Transition risks

Even if major institutional reform is undertaken, the majority of ‘policy’ and resource allocation affecting Aboriginal and Torres Strait Islander people living in remote and discrete communities will continue to ‘flow’ through existing institutions and policy processes for some time. For example:

- For those people/communities residing within a reform catchment area, there will likely be a transition period whereby the new arrangements ‘start small’ and build over time (e.g. become responsible for more resourcing).

- At the end of a transition period, significant policy and resources impacting on communities will likely remain outside the reform arrangements, even if there are significant consultative arrangements in place (this will be subject to the decisions taken by the Queensland Government in terms of the end-point degree to which resources are channelled through any new institutional arrangements).
Some discrete communities may choose not to opt in to the arrangements (assuming the government adopts an opt-in principle).

It may be more difficult for Aboriginal and Torres Strait Islander people living in remote areas, but not in discrete communities, to be part of any reformed institutional arrangements, at least initially.

To mitigate the risks associated with these issues, the Queensland Government should pursue a reform agenda that uses a range of policy instruments that have been shown to work (outlined in chapter eight) in addition to, or in parallel with, its consideration of fundamental changes to institutional arrangements. The time it takes to consider whether major institutional reform will proceed, what it will look like, time to implement the reforms, and the period to transition resources, should not be used as a rationale for delaying other needed policy reforms.

**Rushed implementation**

History is rich in examples of policy failures that occurred because implementation was rushed or occurred with insufficient involvement of key stakeholders—the failures associated with the implementation of home insulation program (Shergold 2015), the Department of Health’s payroll infrastructure and the Northern Territory Interventions are perhaps the most obvious recent examples (Gray 2015, Human Rights Council 2010).

Although there is an urgent need to address the high levels of disadvantage in communities, reforms that are rushed are not likely to work:

> A vital lesson is that governments and communities must have realistic expectations about what changes can be implemented and how quickly change can occur. Successful implementation would depend on the capacity of both government and the community to fully engage in more localised approaches. This capacity does not exist everywhere, takes time and effort to build and would require changes to the highly-centralised decision making currently used across Australia.

> Governments would need to make careful decisions about priorities and resources for implementation. Changing the way governments make decisions would be a gradual process that must evolve from governments’ current approaches to service delivery and be compatible with the fundamentals of the Australian system of government.

> It is also inevitable that some changes will fail and some communities will show little or no sign of improvement, at least initially. Governments and communities must be patient and avoid overreacting to the first sign of falter (PC 2017a, p. 25).

> The top-down, centrally planned and administered approach must go. Instead we must develop a system that vastly increases the control that First Nations peoples of a particular place themselves have for planning, implementation and resource allocation. Such as transformation cannot occur overnight. New structures and processes must allow for phased approach to that First Nations have the capacity for collective action and decision-making required at a place-based level to progressively lead their own development. (Cape York Institute sub. 26, p. 5)
7.4 What is happening elsewhere?

Nationally

The Australian Government has recently committed to a new way of working with Indigenous leaders and communities (DPMC 2017).

Under this new approach, government’s role is to move towards enabling and empowering Indigenous leaders and individuals and developing partnerships with communities. The intent is to foster a devolution of decision-making to local communities and organisations, and to move to a model of service delivery where both government and Indigenous people are accountable for the delivery of outcomes on the ground.

As part of this approach, in 2014, the Australian Government provided funding to a group of Indigenous leaders from eight regions around the country to develop a reform agenda. This resulted in the publication of an Empowered Communities Design (Empowered Communities 2015). Key recommendations were to establish a mechanism for devolving decision-making authority and accountability to Indigenous communities, establish the organisational arrangements to ensure delivery and to establish an evaluation model that allows for adaptive practice. The organisational arrangements to underpin the reforms included establishing:

- a delivery unit in DPMC
- backbone organisations in each of the participating regions
- representative bodies in each Indigenous community that opts in to the reforms
- an institutional umpire modelled on the Productivity Commission (the indigenous Policy and Productivity Council).

The Australian Government has recently signalled its backing for the Empowered Communities approach, and is supporting the implementation of Empowered Communities in seven regions, including Cape York Peninsula. As part of the implementation, the Australian Government has provided $14.4 million over three years from June 2016 to support ‘backbone’ organisations in each of the Empowered Community regions.

DPMC has made a public commitment to an adaptive learning approach to evaluation—as recommended in the Empowered Communities Design Report—however, there has been no commitment to the institutional reforms outlined in the report.

Corporate support for Empowered Communities occurs through Jawun, a not-for-profit organisation that mobilises the skilled resources of the corporate sector to enable Indigenous-led change (Jawun 2015).
Box 7.4 The ATSIC experience

Although the reforms outlined in this chapter are very different from the role played by the former Aboriginal and Torres Strait Islander Commission (ATSIC), it is pertinent to consider the historical factors that led to its formation and subsequent demise.

ATSIC’s role, established in 1990 under legislation, was to:

- advise government at all levels on Indigenous issues
- advocate for the recognition of Indigenous rights
- deliver and monitor some of the Commonwealth’s Indigenous programs and services.

ATSIC’s original structure consisted of a representative arm and an administrative arm.

The representative arm was built around 35 ATSIC Regional Councils, elected every three years. Commissioners to sit on the ATISC board were elected by these Regional Councils. The Administrative arm was composed of several hundred public servants, engaged by ATSIC under the Public Service Act, and headed by a chief executive officer appointed by the Minister. The role of the administrative arm was to support the representative arm and administer the various programs under its control. In its original structure, the administrative arm took direction from ATSIC’s board, but reported to the Minister through the CEO.

Although ATSIC was seen as a significant step towards self-determination, it was constrained in a number of ways, particularly in relation to service delivery. For example, ATSIC controlled less than half of the expenditures on Indigenous affairs by the Australian Government—and around 85 per cent of this was quarantined for expenditure on specific programs—mainly comprising the Community Development Employment Program and the Community Housing and Infrastructure program. ATSIC had very little control over expenditures made or services delivered by state governments.

In perhaps an important lesson for these reforms, ATSIC was often blamed for the poor performance of services delivered into Indigenous communities, even where it had very little, if any, control over these services. The perception of failure may have been fuelled by various allegations of improper behaviour made against its political leadership.

New South Wales

In 2011, the NSW Government established a Ministerial Taskforce to provide advice on possible areas of reform in education, employment and service delivery and accountability in Aboriginal Affairs. During consultations with Aboriginal communities and other key stakeholders expressed a strong desire for change and the need for government to build a genuine and sustainable partnership with Aboriginal communities and organisations.

One of the key recommendations of this taskforce was to establish a Local Decision Making model, with the aim of supporting community-led governance and regional decision making bodies to allow communities to direct and better coordinate services at a local level.

The Local Decision Making Model was trialled in several regions with communities opting in and building on existing governance capacities. One of the trial regions was undertaken with the Murdi Paaki Regional Assembly (see Box 7.5). Under this trial an accord was developed which outlines a formal agreement between Murdi Paaki and the NSW Government about the priorities and service levels that will occur across several Indigenous communities in western NSW.

South Australia

The South Australian Government established an Aboriginal Regional Authority Policy in 2016 following an extensive consultation process from 2013. The policy seeks to create a network of Aboriginal governing bodies charged with representing and advocating for their communities, driving regional priorities and facilitating economic growth (Department of State Development (SA) 2016).

Under this approach, the Minister will formally recognise an Aboriginal governance structure as an Aboriginal Regional Authority (ARA) through an expression of interest process. An ARA needs to demonstrate that it has strong governance structures and is representative of the Aboriginal people and organisations within a clear and supported boundary of operation.

Once recognised as an ARA, the governing body becomes the first point of contact for government. Under the policy, the South Australian Government agrees to enter into good faith negotiations with ARAs regarding program funding, joint activities and other support, which are to be formalised through agreements and reflected in departmental strategies and business plans.

Other than an initial grant of $100,000 to ARAs once they are recognised, the South Australian Government currently has no other direct funding for the scheme.

Victoria

In Victoria, Local Aboriginal Networks (LANs) bring Aboriginal people together at the local level to set priorities and develop community plans (Victorian Government 2015).

The LANs are voluntary community networks that operate on a relatively informal basis. Participants are able to opt in or out at any time. Since 2007, 39 LANs have been formed, with around 2,000 Aboriginal Victorians participating. Networks are facilitated by brokers employed by Aboriginal Victoria. Brokers facilitate LAN operations, broker relationships between LANs and local stakeholders and support the development and implementation of community plans.

The intent is for LANs to provide a means for the Victorian Government to engage with local communities. From this process of engagement, a five-year priority plan was developed.
Box 7.5 The NSW experience: Murdi Paaki Local Decision Making Accord

The Murdi Paaki Regional Assembly is the regional Aboriginal governance body representing the interests of a number of Aboriginal and Torres Strait Islander communities across western NSW. Murdi Paaki asserts the rights of its member communities to improved and more efficient service delivery and recognises the cultural authority of the Traditional Owner groups within the region and works to maintain the autonomy of these groups.

In 2015, the NSW Government and Murdi Paaki entered into a formal agreement to work together to achieve outcomes against five key priorities:

- affordable and appropriate housing
- economic development
- education
- early childhood services
- governance capacity and support (NSW Government; MPRA 2015).

The Accord details the actions, roles and responsibilities to support these priorities and how these will be measured. The agreement includes timelines for the completion of all actions in the agreement, but does not provide for any consequences should these not occur.

The Accord also provides for a monitoring and evaluation group to oversee the agreement. The agreement notes that a reporting and monitoring framework will be developed and included as a schedule to the Accord—however, at the time of writing, this had not been developed. The Accord states that outcomes and performance measures will be made public.

A dispute resolution panel, comprising representatives from the Assembly, and the Departments of Aboriginal Affairs, and Premier and Cabinet was formed to resolve any conflicts or disputes that arise out of the Accord.

An evaluation of the negotiation process found that, although the Accord was accepted by stakeholders as an improved way of coordinating effort, participants had concerns about its longevity. In particular:

- There was concern that government representatives did not have the appropriate delegations to make decisions.
- There were no pooled funds for which innovative solutions could be developed.
- Participants were concerned that the process was insufficient to change the way government does business with Indigenous communities (Aboriginal Affairs (NSW) 2012).
The Torres Strait

The Torres Strait Regional Authority (TSRA) is a regional organisation that performs many of the same functions that would be performed by the Regional Bodies in our reform agenda—although the scope of activities and control over service delivery is significantly less than we envisage.

The board consists of 20 members who are elected very four years by their respective communities. The board determines the TRSA’s policies and budget allocations. The administrative arm of the organisation is comprised of staff who are Australian Government public servants. A CEO reports to and is appointed by the (Australian) Minister for Indigenous Affairs.

Although its activities are relatively constrained, it operates with a significant degree of autonomy:

*The TSRA is the only example of an Indigenous authority in Australia receiving a single direct appropriation in the form of a block grant to cover the entirety of its operations. There is a significant degree of autonomy and flexibility, compared with other funding modalities, allowing the TSRA to plan, self-govern resources, and monitor and evaluate outcomes, with one consolidated annual report. The single line appropriation of government revenue provides a far more streamlined administrative and reporting onus. The TSRA history is unique, and its fiscal relationship with the Commonwealth is best described as inter-governmental, similar in status to an Australian state or territory.* (Moran et al. 2014, p. 40)

In 2009, the TSRA initiated a Service Delivery project, which worked with individual communities to map and identified service gaps across the Torres region (TSRA 2009) This mapping exercise was developed into community-level plans, with reporting on progress towards closing service gaps. The plans identify 1,619 service gaps or unmet community aspirations across the region and provide a ‘traffic light’ progress report against each service gap or community aspiration (ISD steering Committee 2012).

In the first four years of the 2009–2029 Regional Plan, 332 service gaps were closed, work on 671 was in progress, and 616 were under review with their respective communities (TSRA 2014).

Consultations with local service providers in the Torres Strait suggest that, in addition to its formal coordinating role, the TSRA also plays an important informal role in service coordination. For example, we heard stories from service providers of cases where the TSRA had been able to arrange funding for travel to cover shortfalls where travel arrangements had not been properly considered by agency central offices.

In 1997, a House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs conducted an inquiry into greater autonomy for Torres Strait Islanders. The committee recommended that:

- the Commonwealth negotiate the establishment of a joint statutory agency with the Queensland Government to represent all residents of the Torres Strait Area—this new body was to replace other bodies including the Island Coordinating Council, the TSRA and the Torres Shire Council
- the new authority be granted statutory functions to formulate policy and implement programs, take loans and establish and operate business as it sees fit, and to advise the Commonwealth and state governments on matters relating to the Torres Strait region
- the Queensland and Australian governments provide block grant funding, with the goal of devolving maximum authority to the new authority to determine the priorities for the allocation of funds
- the authority develop programs to enhance the economic development of the Torres Strait, including training and apprenticeship programs (House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs 1997).
Cape York

A strong leadership culture is developing in Cape York, through the Cape York Institute, but also through the remote and discrete Aboriginal and Torres Strait Islander communities themselves.

Cape York Institute plays an important role in the Cape, both as an advocate for change as well as in the development of practical solutions, such as their Cape York Leaders Program, which aims to build the confidence and leadership skills of people across Cape York.

The Institute is also leading the progression of the Empowered Communities reform proposal across the Cape and is working with communities to develop local representation. At the time of writing, the Commission is aware of at least two communities where local representation has been established.

7.5 Conclusion

The structural reforms proposed in this chapter are designed to institutionalise many of the approaches to service delivery in Indigenous settings that have been shown to work. In particular, the reforms aim to embed the involvement of communities in the services that affect them through the transfer decision making and accountability. These changes should be accompanied by changes to the way communities are funded and resourced, with independent oversight and transparent reporting of progress.

There are risks, and there will be a range of implementation issues to consider, but the proposed reforms are consistent with reforms occurring nationally, and in other parts of Australia.
Draft recommendation 2
The Queensland Government should reform roles, responsibilities and funding of service delivery. The structural reforms will require:

• communities and regional bodies to develop community plans outlining needs and priorities, identify funding priorities and negotiate mainstream service delivery
• government and regional bodies to enter an agreement specifying the outcomes expected to be achieved and the way in which mainstream services will be provided to communities
• government to identify and pool grant funding to transfer under the agreement
• an independent body to report outcomes and monitor reform progress.

Draft recommendation 3
To implement structural reforms, the Queensland Government should:

• assign central responsibility within government for implementing the reforms—an implementation plan should be developed in consultation with communities within six months
• identify at least two regions where reforms can be implemented—consideration should be given to an expression of interest process
• prepare an agreement outlining the objectives, principles, governance, funding and outcomes being sought
• assign an independent body, with appropriate expertise and Indigenous representation, to evaluate and report on progress and outcomes
• identify government functions that could be transferred to regional bodies.