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Introducing Indigenist Critical Policy Analysis: A rights-based approach to analysing public policies and processes

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Abstract

Institutional racism within Australia, grounded in the country's settler-colonial structure, has sidelined Indigenous interests in public policymaking since federation. In an attempt to redress this, the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) was endorsed by the Australian government in 2009. UNDRIP is an authoritative international standard that could inform the ways that governments engage with Indigenous peoples and protect their rights. This paper introduces Indigenist Critical Policy Analysis (ICPA). While mainstream policy evaluation assesses whether policies and processes have met the governments stated objectives, ICPA assesses whether they uphold or violate Indigenous rights. ICPA involves reviewing policy documents against the key principles and specific Articles of UNDRIP. Presenting a worked example of ICPA, the *NSW Regional Health Strategic Plan 2022–2032* is assessed against the five phases: (1) Orientation; (2) Close examination; (3) Determination; (4) Strengthening practice; and (5) Indigenous final word. This analysis finds that the Strategic Plan is poorly aligned with UNDRIP. Specifically, there is little evidence that Indigenous values influenced or held any authority in the process. ICPA offers a practical approach to analysing policy for compatibility with Indigenous rights under international law that could be used by Indigenous organisations and policymakers.

KEYWORDS
Australia, Indigenist Critical Policy Analysis, indigenous peoples, public policy, United Nations Declaration on the Rights of Indigenous Peoples

1 | INTRODUCTION

The question of how public policies and processes are assessed in relation to the needs of Indigenous peoples is a challenging one (McConnell et al., 2020; Sanders, 2023; Street et al., 2020; Sullivan et al., 2023). What makes for good or bad policy? How should success or failure be judged? These questions are challenging, particularly in the context of Indigenous affairs. There is a consensus that policies affecting Indigenous peoples are often ineffective; there is insufficient evidence, especially from Indigenous perspectives to discern which policies work and which do not (Productivity Commission, 2020b, 2020c, 2024). To address this challenge, this paper introduces an approach called "Indigenist Critical Policy Analysis" (ICPA). It offers a framework for assessing public policies and processes from an Indigenist standpoint, aligning them with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (United Nations, 2007). ICPA can help to demonstrate how standard policy structures sideline Indigenous interests and provide evidence to support transformations in government processes such as those called for by the Priority Reforms outlined in the National Agreement on Closing the Gap 2020 (CTG Agreement 2020) (Australian Government, 2020). ICPA assists analysts to identify areas of public policies and processes that may not serve Indigenous peoples, or to highlight examples of best practice for replication. In addition to articulating a framework for conducting an ICPA, this paper seeks to demonstrate its utility by applying it to an Australian case study, the *NSW Regional Health Strategic Plan 2022–2032* (the Strategic Plan).

Before doing so, this paper briefly provides an overview of the opportunities for a change in approach to policymaking processes in Australia. It describes the socio-political and historical contexts of policymaking in Australia and provides a critique of the existing mechanisms for assessing policy processes. It concludes with suggestions regarding policy development practices that may support the efforts of Indigenous and non-Indigenous actors within and outside of governments to develop policy that meaningfully engages with Indigenous peoples.

2 | WHO AM I?

I am an Aboriginal woman from the Yuin Nation on the South Coast of NSW. My family are the Wrights with connections to the Lonesboroughs, Carpenters and Dixons. I am also a public servant with more than 10 years of experience working across both State and Commonwealth jurisdictions in the public hospital policy environment. As an Aboriginal public servant, I have often been confronted with a policy environment in which I am invisible. The invisibility of Indigenous peoples in policy processes and how this could be addressed is the focus of this paper.

3 | OPPORTUNITIES FOR CHANGE IN INDIGENOUS POLICYMAKING IN AUSTRALIA

New opportunities for change in Indigenous policymaking in Australia are emerging. Key among these is the CTG Agreement 2020. Signed by all levels of government, the CTG

Agreement 2020 includes a commitment to transform government organisations (including by identifying and eliminating institutional racism), working in partnership with Indigenous peak organisations, increasing the amount of service delivery undertaken by the Indigenous community-controlled sector and providing Indigenous interests greater access to government data. This refreshed agreement claims that it seeks to "overcome the entrenched inequality" faced by Indigenous peoples in Australia (Australian Government, 2020), partly through target setting and monitoring, and partly by reforming the internal processes of government organisations.

At the state level, state and territory governments are also involving Indigenous people in policymaking through various mechanisms. This includes through implementation of the CTG Agreement 2020 at the state/territory level, Treaty negotiation (e.g. Whittaker et al., 2021), legislated Indigenous Voices (e.g. Olijnyk & Koch, 2023) and shared decision-making initiatives (e.g. Howard-Wagner & Markham, 2023).

This is intended to create a significant shift in the way in which governments engage with Indigenous peoples. To bring about lasting change in Indigenous social and economic outcomes, many changes are needed to government processes to ensure that policies cater to Indigenous needs. The CTG Agreement 2020 has provided an impetus for governments to begin this work. For example, the most recent Commonwealth Government budget rules express an expectation that agencies will identify how their policy proposals contribute toward implementing the CTG Agreement 2020. In addition, it requires agencies to engage with Indigenous peoples and organisations to consider the potential impact of policy proposals on Indigenous peoples (Department of Finance, 2022). However, currently there are few ways to assess the quality of government engagement or assist policymakers identifying whether policies or processes suitably respect Indigenous rights.

4 | SETTLER-STATE CONTROL

This promised change to governments' ways of doing business is set against a policymaking landscape steeped in settler-state control over the public policy domain. The establishment of the settler colony introduced British institutions, displacing Indigenous institutions (Behrendt, 2003, p. 54; Wolfe, 2016). This legacy endures, perpetuating the disempowerment of Indigenous communities and marginalising Indigenous priorities, needs and ways of acting and knowing (Moreton-Robinson, 2021). Colonisation's structural racism continues to impact health, education, economic development and incarceration among Indigenous peoples (Bargallie, 2020; Behrendt, 2003).

Historically, Indigenous peoples have had limited influence in nation-state policy development, even when input is sought it is rarely valued or holds sway in the final policy or process (Came et al., 2019, 2023). In Australia, Indigenous peoples still lack the influence enjoyed by special interest groups such as the Minerals Council of Australia or the National Farmers Federation. There are relatively few Indigenous voters as a proportion of the total voter pool. Indigenous peoples make up approximately 3% of the enrolled voting population in Australia and there have been few Indigenous politicians throughout Australia's history (Evans & McDonnell, 2022). Similarly, the ranks of senior Indigenous bureaucrats are thin (Bargallie, 2020, p. 55). Even when Indigenous individuals ascend within the public service, they often have limited influence beyond Indigenous affairs. Consequently, the ability of Indigenous peoples to shape policies and their implementation is constrained.

In response to these challenges, various institutions have emerged to represent Indigenous interests in policymaking. These institutions typically fall into two categories: those established by governments and community-controlled organisations (Sanders, 2002).

Government-established advisory bodies, such as the National Aboriginal Consultative Council, the National Aboriginal Conference and the Aboriginal and Torres Strait Islander Commission (ATSIC), relied on government for funding and an authorising environment. However, these bodies had limited power to influence policy decisions and were ultimately abolished (Hannaford et al., 2003; Johnston, 1991; Sullivan, 1996).

On the contrary, community-controlled organisations are created by Indigenous peoples to address the shortcomings of mainstream services in providing culturally appropriate support. This includes healthcare services, legal services, community protection and a range of other services that directly affect communities. Community-controlled organisations embody a resistance to assimilation and mainstreaming policies, translating the concept of self-determination into practice (Anderson & Sanders, 1996; Davis, 2013; Foley, 1991; Panaretto et al., 2014; Poirier et al., 2022). However, some prominent community-controlled organisations are still heavily reliant on governments for funding. In controlling funding and performance indicators, there is always the risk that the government may attempt to limit the role of the community-controlled organisations to that of service providers operating under a transactional relationship (Davis, 2020; Department of Health, 2016).

Ultimately, Indigenous peoples lack the power to significantly influence government policy, a marginalisation that can be described as institutional racism. While governments have committed to addressing institutional racism under Priority Reform 3 of the CTG Agreement 2020, substantial structural reforms devolving state power to Indigenous institutions remain absent. At best, governments have committed to establishing Indigenous mechanism to monitor government but have not committed to devolving decision-making powers to Indigenous people. Consequently, settler-state control over policymaking persists, perpetuating institutional racism and impeding the CTG Agreement 2020 objectives.

5 | WHY DO WE NEED INDIGENIST CRITICAL POLICY ANALYSIS?

The relative social and economic disadvantage of Indigenous peoples in Australia is often attributed to public policy failure. Indeed, in recent years, the rhetoric of policy failure has made for a rare consensus in Indigenous policy debate. Accordingly, there is an imperative to assess the effectiveness of policies and processes to identify the causes of failure. This has proven challenging.

According to the orthodox view, the lack of understanding regarding "what works" in Indigenous public policy has been a major factor in the failure of past policies and programmes to achieve government objectives. For instance, the Productivity Commission's 2015 review of the Closing the Gap initiative attributed limited progress to the government's insufficient commitment to evaluating policy efficacy and cost-effectiveness (Productivity Commission, 2015). This perspective has been prominent among senior officials for over a decade, with increased expenditure on Indigenous evaluation being a primary response of the Turnbull Liberal Government to policy failure (see Dillon, 2020). Consequently, in 2019, the Productivity Commission was tasked with developing a comprehensive Indigenous evaluation strategy (IES) for use by all Australian Government agencies concerning policies affecting Indigenous peoples. Released in 2020, the Productivity Commission's report proposed the IES to establish an evidence base on the effectiveness of Indigenous policies and programmes (Productivity Commission, 2020b). The proposal involved conducting evaluations throughout the policy and programme lifecycle, considering their impact on Indigenous communities (Productivity Commission, 2020a, p. 5). However, the Government failed to respond formally to the report, and the proposed implementation time frame for the IES of 2 years has long since expired.

Through the negotiation of the CTG Agreement 2020, the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (the Coalition of Peaks) introduced a different perspective on the prerequisites for successful policies in Indigenous affairs. According to the Coalition of Peaks, policy success hinges on upholding Indigenous rights, particularly in terms of participation in policymaking through partnerships with a transformed government and implementation through community control. This new thinking is now evident in the Productivity Commission's scathing report into the progress on the CTG Agreement 2020. Instead of a technocratic focus on understanding "what works," it evaluates progress toward the implementation of the Priority Reforms in terms of the transfer of public power into Indigenous hands. The study report highlighted a failure of governments to meet their commitments under the CTG Agreement 2020 stating that (Productivity Commission, 2024, p. 3):

> It is too easy to find examples of government decisions that contradict commitments in the Agreement, that do not reflect Aboriginal and Torres Strait Islander people's priorities and perspectives and that exacerbate, rather than remedy, disadvantage, and discrimination.

In relation to the third Priority Reform—Transforming Government Organisations—the report noted a "stark absence" of strategies to make the changes required. Furthermore, the Productivity Commission (Productivity Commission, 2024, p. 5) noted that they were:

> … yet to identify a government organisation that has articulated a clear vision for what transformation looks like, adopted a strategy to achieve that vision, and tracked the impact of actions within the organisation (and in the services that it funds) towards that vision.

6 | LIMITATIONS OF THE EXISTING WAYS TO EVALUATE FROM AN INDIGENOUS PERSPECTIVE

The Productivity Commissions' report highlights agencies' uncertainty about *how* to meet these new requirements. There are a range of methods proposed to evaluate or privilege Indigenous voice and views in the policymaking process.

One existing tool is the Institutional Racism Audit Matrix (IRM), designed in Australia to measure institutional racism with the healthcare system (Marrie, 2017). The IRM relies on publicly available data and comprises five key indicators: (1) inclusion in governance; (2) policy implementation; (3) service delivery; (4) employment; and (5) financial accountability. While the IRM serves as a useful tool to detect institutional racism by enhancing transparency and accountability in specific domains, its validation process and indicator weightings lack clarity. For instance, the rationale behind assigning legal visibility twice the weighting of other indicators remains unclear. Moreover, the IRM provides an assessment tool but does not offer recommendations for improvements or solutions.

Another approach, developed by Darumbal, Juru and South Sea Islander woman, Dr Carmen Parter (2020), offers a system-wide translational model of practice to address institutional and systemic racism perpetuated by individuals such as policymakers (Parter, 2020). This model aims to enable, embed and enact Indigenous Knowledges and Cultures in the policy implementation process. However, it should be noted that this model is not an evaluative framework and does not demonstrate how Indigenous people's perspectives were privileged in the policy production process.

While these mechanisms are valuable, there remains a critical need for policy evaluation frameworks to identify the policies, processes and institutions that hinder Indigenous outcomes, as well as those that promote and integrate Indigenous rights and priorities. With this need in mind, the ICPA was developed.

7 | WHAT IS INDIGENIST CRITICAL POLICY ANALYSIS?

Indigenist Critical Policy Analysis (ICPA) is an evaluative and analytical framework used to assess policies and policy processes for their alignment with Indigenous peoples' needs. This method comprises a five-phase process that evaluates the strength of Indigenous participation in policymaking. It is rooted in Indigenist research principles, emphasising resistance, political integrity, and Indigenous voice. Indigenist research aims to empower Indigenous peoples, is conducted by them and centres on their lived experience (Rigney, 2017; see also Moreton-Robinson, 2013; Watego et al., 2021).

ICPA draws inspiration from Critical Tiriti Analysis (CTA), a tool developed in Aotearoa (New Zealand), that grounds critical policy analysis within the Te Tiriti o Waitangi—the Māori text of the Treaty of Waitangi (Came et al., 2020). Te Tiriti o Waitangi is very significant in the socio-political context and indeed the policymaking environment of Aotearoa. Originally developed as a retrospective tool, CTA was heavily influenced by the United Nations Declaration on the Right of Indigenous Peoples and the Matike Mai process (Came et al., 2020). Since it was first introduced as a methodology, CTA has evolved into a prospective tool for assessing policy development processes and addressing potential shortcomings (Came et al., 2023; O'Sullivan & Came, 2022).

In the Australian context, ICPA takes the five-phase CTA approach but adapts this with different assessment indicators relevant to Phases 2 and 3. The indicators were developed based on an assessment of the core principles of CTA in relation to the UNDRIP. The core principles in CTA related to engagement/equitable participation (Kāwanatanga), self-determination (Tino rangatiratanga), equality (Ōritetanga) and holistic well-being (Wairuatanga) (Came et al., 2020). While there was no direct correlation between Te Tiriti o Waitangi and UNDRIP, there were a number of Articles that spoke to the general principles of decision-making process and institutions that would address the same principles as Kāwanatanga and Tino rangatiratanga. Ōritetanga and Wairuatanga were better addressed by Articles relating to specific policy areas. The authors of CTA foresaw the adaptation of the methodology in other contexts, ICPA is one such adaption (Came et al., 2020). Similarly, while primarily developed for the Australian context, ICPA's adaptability and alignment with international Indigenous rights standards facilitate its applicability in diverse settings.

The objective of ICPA is to assist the assessment policies and proposals for their responsiveness to Indigenous needs. It aims to aid in addressing institutional racism and government transformation, offering policy process assessments and improvement recommendations. It assesses whether, and how, Indigenous rights are upheld in policy processes, thereby incorporating Indigenous Knowledges and Cultures. In alignment with its Indigenist Research Methodologies roots, it is intended for an ICPA process to privilege Indigenous perspectives and be completed under the leadership of Indigenous peoples.

To gauge Indigenous participation and influence in policymaking, UNDRIP serves as the benchmark due to its international recognition, endorsed by the Australian Government (Macklin, 2009; United Nations, 2007). The assessment criteria are informed by guidance documents from the Australian Human Rights Commission including the Community Guide (Australian Human Rights Commission, 2010) and Engagement Toolkit (Australian Human Rights Commission, 2012). Additionally, insights from the Lowitja Institute's Discussion Paper on government engagement with Indigenous peoples (Thorpe et al., 2016) and the author's

personal experience as an Indigenous person in the policy arena contribute to the assessment framework.

8 | HOW TO DO INDIGENIST CRITICAL POLICY ANALYSIS

ICPA comprises five phases, commencing with Orientation, followed by Close examination, Determination, Strengthening practice and concluding with Indigenous final word. Indigenous engagement is vital throughout all stages, especially involving those who participated in the process under evaluation.

The types of questions that may be asked in relation to the Orientation and Close examination phases are outlined; however, it should be noted that these are not exhaustive and should be tailored.

8.1 | Phase 1—Orientation

This initial phase assesses the policy or policy process broadly to ascertain whether it aligns with UNDRIP and its key principles. These key principles include self-determination, free, prior and informed consent (FPIC), respect for and protection of culture, and equality and non-discrimination.

1. *Self-determination* involves Indigenous peoples taking control of their fate, creating and supporting Indigenous institutions.
2. *Free, prior and informed consent* necessitates meaningful negotiation with Indigenous people before policy development, reflecting their choice (Mauro, 2018).
3. *Respect for and protection of culture* entails preserving Indigenous Knowledges and Cultures, respecting their practices, languages and protocols.
4. *Equality and non-discrimination* acknowledges Indigenous inclusion while at the same time recognising distinct Indigenous needs, potentially requiring tailored approaches and not assimilation.

These principles are interrelated and must be considered collectively, reflecting the holistic interpretation of UNDRIP (Asia Pacific Forum of National Human Rights Institutions and Office of the United Nations High Commissioner for Human Rights, 2013; Australian Human Rights Commission, 2010; The Coalition for the Human Rights of Indigenous Peoples, 2018). Their absence signifies neglect of Indigenous perspectives and priorities.

Key considerations:

- Is UNDRIP or the key principles mentioned in the policy document?
- Does the policy process centre Indigenous rights or perspectives?
- What images and quotes are used in the final policy document?

8.2 | Phase 2—Close examination

This phase closely scrutinises the policy or policy process assessing its alignment with UNDRIP's articles. This is done in two parts, firstly examining those relating to the

decision-making process and institutions (Articles 18, 19 and 23) and then examining those that are specific to the policy area in question. For example, in the domain of Health policy, Article 24 is particularly relevant. Or in the case of Education, Article 14 should be considered. This phase asks whether the policy, the development and implementation process engage with the concepts outlined in the Articles.

8.2.1 | Decision-making process and institutions

Article 18 outlines the right of Indigenous peoples to actively participate in decisions about matters that affect them. It states:

> Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

To ensure consistency with Article 18, an effective, culturally appropriate system must be established to actively engage Indigenous peoples in the decision-making process. This may mean Indigenous representation on advisory groups or self-government arrangements such as community-controlled organisations. These self-governing bodies should be devised in accordance with Indigenous governance principles.[1]

Article 19 outlines the requirement for governments to act in good faith and obtain FPIC. It states:

> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.

It is about providing detailed information about a proposal to Indigenous peoples and organisations in a manner that can be understood, to ensure that consent can be authentically and meaningfully provided. This impacts the way in which input is sought, the language used, and the time frames applied. It must happen in the "right way" incorporating Indigenous ways of knowing, being and doing in the process.

Article 23 outlines the right of Indigenous peoples to be involved in policy development and administration. It states:

> Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programs affecting them and, as far as possible, to administer such programs through their own institutions.

When read in the broader context of UNDRIP, it is about equitable Indigenous control over setting priorities, resourcing and implementation. It outlines the requirement to ensure that policy incorporates Indigenous epistemologies, approaches and authority.

Key considerations:

- Were any Indigenous peoples involved in the process clearly identified? Were their cultural connections and accountability clearly stated?
- How were Indigenous people able to participate in the decision-making process?
- In relation to a consultation process, were submissions published?
- What knowledges informed the policy development? Does it reference academic literature? If so, who is cited?
- Was there an opportunity for Indigenous peoples to say 'no' or alter the course of the policy? Were the priorities set centrally or in consultation with Indigenous communities?
- What narratives are used in relation to Indigenous peoples?

8.2.2 | Domain-specific rights: the example of health

Article 24.1 articulates Indigenous rights to traditional medicines and approaches to health. It also articulates the citizenship rights of Indigenous peoples to access all social and health services. It states:

> Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.

Article 24.2 addresses Indigenous health as a state responsibility, in ways that Indigenous peoples prefer. This is more than simply addressing the basic and essential requirements for health. It provides the mechanisms to achieving health and wellness. This may relate to preference of language, cultural epistemologies, and priorities as well as considerations of wellness. It also means that *all* health services including mainstream and non-community-controlled services need to be culturally safe and appropriate. It states:

> Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Key considerations:

- What definition of 'health' was used?
- Were traditional medicines or healing practices mentioned in the policy?
- What was the narrative used in relation to Indigenous health?

8.3 | Phase 3—Determination

Performance assessment occurs in this phase through a Likert-type scale across each ICPA domain. Using publicly available evidence, the assessment ranks the policy or policy process

as "silent," "poor," "uncertain," "fair," "good" and "excellent" for each indicator. Indicators 1 through 3 are assessed for all policies with additional indicators related to specific policy areas. A textual explanation to support the ranking is also included.

8.3.1 | Decision-making process and institutions

Indicator 1 (Articles 18 and 19)—The policy or policy process demonstrates that Indigenous peoples are equal or lead partners in the policy process and that FPIC has been obtained.

Indicator 2 (Articles 18 and 19)—There is evidence in the policy or policy process of Indigenous values influencing and holding authority.

Indicator 3 (Article 23)—There is evidence of mechanisms to ensure equitable Indigenous participation and/or leadership in setting priorities, resourcing, implementing and evaluating the policy or the policy process.

8.3.2 | Domain-specific rights: The example of health

Indicator 4 (Article 24.1)—There is evidence of the incorporation of traditional medicines and approaches to health in the policy or policy process.

Indicator 5 (Article 24.1)—There is evidence of Indigenous peoples exercising their citizenship rights as Indigenous peoples in the policy or policy process.

Indicator 6 (Article 24.2)—There is evidence of mechanisms to ensure that Indigenous peoples can achieve the highest attainable standard of health in the policy or policy process.

8.4 | Phase 4—Strengthening practice

This phase allows assessors to provide practical feedback, focusing on Indigenous rights, leadership, values and knowledge. Identifying successful approaches and areas for improvement is essential, with Indigenous voices central to this phase. This phase also supports the ongoing efforts to decolonise and indigenise policies and policy processes. This feedback could be used to improve the development and implementation of policies in the future, inform refinements to iterations of policies and adapt indicators used to identify the success or achievements of the policy.

8.5 | Phase 5—Indigenous final word

This phase offers an evaluation of the policy or policy processes' alignment with UNDRIP, gauged through Indigenous representatives' perspectives and relevant documentation. It considers Indigenous engagement and whether Indigenous policies, like the CTG Agreement 2020, are meaningfully incorporated. It is an opportunity for Indigenous people to provide their unmitigated response to the process and the way in which their perspectives were articulated in the final policy or process.

9 | A WORKED EXAMPLE: ASSESSING THE NSW REGIONAL HEALTH STRATEGIC PLAN 2022–2023 USING INDIGENIST CRITICAL POLICY ANALYSIS

I report on the application of the ICPA under each phase above for the *NSW Regional Health Strategic Plan 2022–2032* (the Strategic Plan) (NSW Ministry of Health, 2023a). This policy

document was selected due to its recency and the potential impact it will have on Indigenous health in New South Wales (NSW). According to the most recent census data, NSW is home to the highest number of Indigenous peoples in Australia with more than half of that population living outside of major cities (Australian Bureau of Statistics, 2021).

This assessment is completed using publicly available information including:

- documents related to the NSW parliamentary Inquiry into Health Outcomes and Access to rural, regional and remote NSW (Aboriginal Health & Medical Research Council of NSW, 2020; Health outcomes and access to health and hospital services in rural, regional and remote New South Wales, 2022);
- supporting documents to the development of the Strategic Plan (NSW Ministry of Health, 2022a, 2022b); and
- the Strategic Plan final documents (NSW Ministry of Health, 2023a, 2023b).

9.1 | Phase 1—ICPA orientation

The Strategic Plan provides a framework to support NSW Health's commitment to "ensuring that people living in regional, rural and remote NSW can access high quality, timely healthcare and have excellent patient experiences and optimal health outcomes" (NSW Ministry of Health, 2023a). It acknowledges that regional communities have different needs and challenges. It was developed to align with a whole of NSW health strategy and informed by previous work, academic research and the recommendations of a NSW parliamentary inquiry about health outcomes and access in rural, regional and remote NSW.

The Strategic Plan refers to healthcare as a basic human right but does not refer to UNDRIP or its key principles. It does refer to the CTG Agreement 2020 broadly and some specific targets—but not the Priority Reforms or Target 1, that "Everyone enjoys long and health lives" (Australian Government, 2020). The National Aboriginal and Torres Strait Islander Health Plan (NATSIHP) is also not referenced in the Strategic Plan despite state and territory governments being key implementation partners for the NATSIHP and the NATSIHP being underpinned by the CTG Agreement 2020.

9.2 | Phase 2—ICPA close examination

In this section, I use ICPA to assess the Strategic Plan against the specific clauses of UNDRIP. It is considered in two parts, (1) those related to decision-making processes and institutions and (2) those related to health. This assessment is completed using only publicly available evidence related to the development of the Strategic Plan, as well as the content of the final documents.

9.2.1 | Decision-making processes and institutions

There is limited evidence to demonstrate that Indigenous peoples had a leadership role or equal partnership in the development of the Strategic Plan. This includes the process of priority-setting, resourcing and implementation of the policy development process.

The Strategic Plan was developed by the Regional Health Division of NSW Health. It outlines that it was developed in consultation with local health districts, consumers, community members and a range of other stakeholders. NSW Health report undertaking 68 consultation sessions with over 1600 people from across NSW and gathering community feedback from the

NSW government platform "Have your say." Submissions were also sought through a targeted consultation process. The public consultation sessions and targeted consultations were said to include Aboriginal Community Controlled Health Organisations (ACCHOs) and Aboriginal Medical Services.

Two governance groups provided guidance and direction to the development process: the Regional Health Plan Steering Committee and the Regional Health Ministerial Advisory Panel (the Panel). The Steering Committee is reported to have included Aboriginal leaders; however, the list of members is not publicly available. In relation to the Panel, the process through which members were appointed did not meet the expectations for active Indigenous participation in decision making "through representatives chosen by themselves in accordance with their own procedures" (United Nations, 2007, p. 16).

The Panel was established following a call for expression of interest for potential members in April 2022. The call sought members with expertise in a number of areas; however, Indigenous health or Indigenous perspectives were not included on that list. When the inaugural 15-member Panel was selected, there was no easily discernible Indigenous representation. While there was one Aboriginal person on the Panel, it is unclear whether that member was there specifically representing Indigenous perspectives and the NSW Health website did not make clear the Aboriginal member's cultural connections and therefore lines of accountability (NSW Ministry of Health, 2022c).[2,3] In addition, there appears to have been no process for Indigenous groups to choose their own representatives. If there had been such an opportunity, it would be reasonable to expect representation from the Aboriginal community-controlled sector or Aboriginal Medical Services both of whom hold cultural authority to act on behalf of communities.

The final documentation indicates that Indigenous views were actively sought through the targeted consultation. However, it is unclear to what degree this occurred, the organisations that were approached and whether there was any follow-up in relation to the responses received. The consultation submissions are not publicly available and there is no summary report that provides details of the organisations from which submissions were sought and/or received. However, there are some selective quotes from Indigenous stakeholders in the Future Health Report and Summary that were published in advance of the Strategic Plan.

The Strategic Plan does include several aims in relation to decision-making processes and institutions including:

- shared decision-making with Aboriginal people about healthcare needs;
- the involvement of Aboriginal voices to co-design services; and
- meaningful representation of Aboriginal community members in local health district governance settings.

9.2.2 | Specific policy areas—Health

In relation to Article 24.1, the Strategic Plan does not reference traditional medicines or approaches to health. However, it does outline a vision for "a sustainable, equitable and integrated health system" (NSW Ministry of Health, 2023a).

The Strategic Plan does not directly articulate the citizenship rights of Indigenous peoples to access all services although it does include a strategic objective that broadly speaks to this concept: *Support culturally appropriate care and cultural safety for zero tolerance for racism and discrimination in health settings.* While that overarching strategic objective is not specific to Indigenous peoples, there is a specific aim that speaks to the elimination of Indigenous-specific interpersonal racism and promotion of cultural understanding. In specifying how the elimination of racism and cultural safety will be enacted, the Strategic Plan noted six

strategies. The first being cultural training followed by acknowledgement of country, the inclusion of Aboriginal artwork in waiting rooms and signage in local language. The final item on this list was a mechanism for eliminating racism. None of these strategies reference a single health-specific structure where changes could, and should, be made such as policies related to outreach programmes, investment in co-designed and delivered community programmes. Furthermore, it minimises the impact of Indigenous-specific racism on health and well-being and suggests that the systemic racism embedded within Australia's health system can be at least partly addressed by redecorating waiting rooms.

The Strategic Plan does seek to provide mechanisms for Indigenous peoples to achieve the highest attainable standard of health as per Article 24.2. This is articulated in Priority 5: *Expand integration of primary, community and hospital care*. This strategic priority highlights the role of ACCHOs, the need to improve access and equity of services and develop "place-based" health needs assessments and plans.

On the contrary, the Strategic Plan includes references to Indigenous peoples that reinforce negative narratives and stereotypes. For example, there is one policy aim that relates to discharge against medical advice that specifically refers to Indigenous peoples. This policy aim could be interpreted as identifying the Indigenous patients as the problem—they do not understand the medical risk of discharge—rather than considering that the system may not be capable of addressing their health needs or providing culturally safe care in an admitted setting. In relation to a focus on support for Indigenous families, the Strategic Plan foregrounds violence, abuse and neglect, perpetuating narratives and stereotypes that represent Indigenous peoples as the problem.

The CTG Agreement 2020 is referenced in the Strategic Plan however the Priority Reforms are not addressed specifically. The absence of a reference to Priority Reform 3: Transforming Government Organisations is particularly striking given the overall aim of the Strategic Plan. Only three specific targets are identified Targets 2, 14 and 17 with Target 1: Close the gap in life expectancy within a generation, by 2031 being notably absent from the Strategic Plan. While the Strategic Plan references the social determinants of health throughout, there is no reference to the cultural determinants of health. The cultural determinants of health, outlined in the NATSIHP include the impact of colonisation and racism on the health and well-being of the Indigenous community (Department of Health, 2021, pp. 18–19).

9.3 | Phase 3—ICPA indicator determination

The ranking of the ICPA indicators follows in Table 1.

9.4 | Phase 4—Strengthening Practice

There are aspects of the Strategic Plan that are positive including the aspirations of the Strategic Plan, the identification of barriers to accessing health services and recognition of the importance of Indigenous providers and health practitioners. However overall, the Strategic Plan would have been strengthened if it had engaged with the key principles of UNDRIP.

Engagement with UNDRIP would have meaningfully engaged the complexities of improving and protecting Indigenous health, focused on Indigenous-designed and Indigenous-led solutions. The Strategic Plan would have sought to address Indigenous self-determination as an essential component of supporting healthy Indigenous communities and an inherent right. It would have sought to transfer power in the decision-making processes and institutions of the health system to Indigenous peoples.

TABLE 1 Indigenist Critical Policy Analysis (ICPA) assessment indicators for the NSW Regional Health Strategic Plan 2022–2032.

Indicators	Silent	Poor	Uncertain	Fair	Good	Excellent	Evidence/justification
Decision-making processes and institutions							
1. Indigenous peoples are lead or equal partners in policy development including FPIC (Articles 18, 19)		X					There is no evidence that Indigenous peoples were lead or equal parties to the policy development. There is no evidence that Indigenous groups were able to select representatives in accordance with an effective, culturally appropriate process
2. Indigenous values influencing and holding authority in the policy process (Articles 18,19 and 24.2)		X					There is a failure to demonstrate that Indigenous values influenced or held any authority in the process and did not demonstrate FPIC
3. Indigenous participation/leadership in setting priorities, resourcing, implementation and evaluation (Article 23)	**X**						There was no easily discernible Indigenous representation on the inaugural Ministerial Advisory Panel. There was an inability to determine whether Indigenous peoples had a leadership or equal role through governance processes
Specific policy area—health							
4. Incorporation of traditional medicines and approaches to health. (Article 24.1)	X						The Strategic Plan does not have any reference to traditional medicines or approaches to health
5. Indigenous peoples are supported to exercise their citizenship rights, free from discrimination (Article 24.1)			X				While there is a focus on culturally appropriate care, this is counterbalanced by rhetoric that reinforced racist narratives and stereotypes
6. Acknowledgement of State's responsibility to provide mechanisms for Indigenous peoples to achieve the highest attainable standard of health (Article 24.2)			X				There is a focus on the ACCHOs, but the Strategic Plan is not explicit in identifying the social and cultural determinants of health nor is it explicit in how to address health inequalities

The Strategic Plan contains significant aspirational statements about the commitment of the Ministry of Health and wider public health sector to addressing health inequalities. In particular, "the challenges faced by Aboriginal people in accessing safe, high quality, timely and culturally appropriate health services" (NSW Ministry of Health, 2023a, p. 11) and "the fairness to access healthcare irrespective of your postcode, background or culture" (NSW Ministry of Health, 2023a, p. 14). However, it also includes racialised references to Indigenous patients that perpetuate the narrative that Indigenous peoples are the problem, rather than the system.

In relation to the governance processes surrounding the Strategic Plan, Indigenous perspectives and epistemologies ought to be reflected structurally at all levels. This is particularly relevant at decision-making points where Indigenous peoples should have a lead or equal voice in policy decisions. Having multiple Indigenous perspectives clearly represented on the Ministerial Advisory Panel, with the cultural and community authority, may have resulted in the content of the Strategic Plan not perpetuating negative narratives and stereotypes. In privileging Western experience and qualifications and failing to identify the cultural connections, and therefore, the lines of cultural accountability of the single Aboriginal member on the Panel, the process did not meaningfully engage with Indigenous ways of knowing, being and doing. To address this moving forward, the NSW Government should implement the Parter model of practice to ensure that Indigenous Knowledges and Cultures are enabled, embedded and enacted in policy implementation. In addition, the NSW Government should use the Australian Human Rights Commission Engagement Toolkit that outlines a guide to consultation with Indigenous communities.

Ensuring alignment with the NATSIHP would ensure the role of colonisation and the cultural determinants of health were acknowledged and the specific health needs of Indigenous peoples could be addressed. Indigenous peoples should not be grouped with other marginalised communities such as people from culturally and linguistically diverse backgrounds or the LGBTQIA+ community. Linking marginalised groups in a list is not helpful or meaningful in addressing marginalisation and demonstrates a lack of sensitivity to diversity more broadly. Each group faces unique circumstances, and the impact of colonisation and Indigenous-specific racism is specific to Indigenous peoples.

The Strategic Plan did attempt to identify some of the barriers to Indigenous peoples accessing health care and attempts were made to identify strategic objectives that seek to address these barriers. Indigenous providers and health practitioners including the ACCHOs are recognised within the Strategic Plan as a key part of the health system. However, there were large parts of the Strategic Plan that considered Indigenous peoples alongside other marginalised communities thus rendering specific health needs of Indigenous peoples invisible.

9.5 | Phase 5—Indigenous Final Word

The final stage of ICPA seeks to provide an overall assessment of the alignment of the Strategic Plan with UNDRIP as viewed by Indigenous people and/or their representatives. As with the rest of the assessment, this has been completed using publicly available evidence.

The minimal way in which the Strategic Plan engages with the CTG Agreement 2020, specifically Target 1: Close the gap in life expectancy within a generation, by 2031 along with the failure to align the strategy with the NATSIHP indicates to the assessor that the Strategic Plan does not reflect Indigenous aspirations.

In relation to the perspectives of Indigenous peoples and/or their representatives, there was some level of engagement with Indigenous peoples in the development of the Strategic Plan. It is unclear, however, whether the individuals and groups engaged with had the appropriate cultural authority, knowledges, respect and influence to be making representations on behalf

of Indigenous communities. This lack of clarity is in some part because details of the organisations involved in the consultation and steering groups are not identified. To counter this, it should be made clear the level and nature of Indigenous participation in the policy process along with clear statements of how the Strategic Plan does reflect Indigenous aspirations. A few select quotes throughout a document does not demonstrate this.

In the absence of evidence of engagement of Indigenous peoples in the development of the Strategic Plan, I sought to identify evidence of previous statements and policy documents of relevant Indigenous institutions. The Aboriginal Health and Medical Research Council of NSW (AHMRC) is both the most relevant Indigenous representative group from the perspective of coverage across the state and subject matter expertise.

In 2020, the AHMRC provided a submission to a parliamentary inquiry into health outcomes and access in rural, regional and remote New South Wales (NSW). The submission had two main focuses: building formal partnerships and connected care. The AMHRC noted that the approach to formal partnerships between Local Health Districts (LHDs) and ACCHOs was inconsistent across NSW. Despite the AMHRC submission less than 3 years prior, the Strategic Plan listed partnerships with ACCHOs as "working well" (NSW Ministry of Health, 2023a, p. 33). The focus on connected care in the AMHRC submission was also not accurately reflected in the Strategic Plan. The AMHRC highlights the need for better integration of services to reduce rates of discharge against medical advice. The Strategic Plan placed responsibility with the patient—ignoring the systemic issues identified in the AMHRC submission. The disconnection between the views put forward in the AHMRC parliamentary submission and the Strategic Plan demonstrate a lack of engagement with Indigenous perspectives.

10 | DISCUSSION AND CONCLUDING COMMENTS

ICPA provides a framework for assessing how public policy is made, by whom and whether it meets the needs of Indigenous peoples and upholds Indigenous rights. This paper has used the ICPA to demonstrate that the *NSW Regional Health Strategic Plan 2022–2032* (the Strategic Plan) does attempt to address health equity. It recognises that Indigenous peoples carry a disproportionate burden of disease, and it is orientated to the place-based provision of services. However, it perpetuates racialised narratives of Indigenous peoples through several specific policy aims. Overall, the analysis using the ICPA shows that the Strategic Plan only poorly upholds Indigenous rights. Any revision of the Strategic Plan along with the development of any implementation plans would be strengthened by evaluation against the ICPA framework. A revised Strategic Plan needs to align with the National Agreement on Closing the Gap 2020 and the National Aboriginal and Torres Strait Islander Health Plan as well as robustly acknowledge and address colonisation, racism and other cultural determinants of health.

Beyond this specific example, all governments of Australia are currently grappling with how best to engage with Indigenous peoples and ensure that government policy addresses Indigenous needs. ICPA is an analytical framework that focusses on policy details. It looks beyond rhetorical policy statements to assess the strength of Indigenous people's participation in policymaking and the extent to which Indigenous rights, aspirations and expectations are positioned to meaningfully influence policy decisions.

Policy that meets the needs of Indigenous peoples and engages with Indigenous rights requires that policymakers be clear and explicit about the policymaking process. In the first instance, policy documents must explain the extent to which Indigenous peoples participated in the policy development process—from identifying the problem through to drafting the policy documents. It also policy documents should means identify the power that the authorised representatives of Indigenous peoples had in policy development, as well as the membership and expertise of the group. Engaging in a process of meaningful review by Indigenous peoples to

ensure that negative stereotypes and narratives are not perpetuated may also raise Indigenous people's confidence in the policy process.

ICPA is a simple, transparent evaluation framework that could strengthen the policymaking process and ensure that policies meet the needs of Indigenous peoples into the future. Grounded in UNDRIP, it requires engagement from Indigenous peoples at every stage. This supports Indigenous self-determination in the political and policy environment. ICPA has been demonstrated through a specific health case study; however, the five-phase process outlined may be useful in a variety of policy domains including education, social policy and justice. Any policy domain in which policies and processes currently disproportionately negatively impact Indigenous peoples and reflect established, Western-dominated values and ideals may benefit from analysis against the ICPA framework. It will draw attention to and build an evidence base that can be used to challenge and decolonise the standard structures and practices of policymaking that continue to sideline Indigenous interests.

AUTHOR CONTRIBUTIONS

Natalie Bryant: Conceptualization; writing – original draft; writing – review and editing.

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ENDNOTES

[1] A discussion of what these principles are, and how they should be operationalised is important but would require a much more in-depth discussion than can be provided in this paper. For a detailed discussion in relation to the operationalisation of these principles in the mainstream health system (Crooks et al., 2021; Thorpe et al., 2016).

[2] The original biography published on the NSW Health Website for this member did not identify them as an Aboriginal person nor as bringing Indigenous perspectives to the Panel through work experience. Advice from that panel member was that the published biography did not reflect the information that was provided in terms of their cultural connections and accountability.

[3] It is noted that in October 2023, a new Regional Health Ministerial Advisory Panel was announced that does include

clearly discernable Indigenous representation including representatives from an Aboriginal Medical Service and the Aboriginal Health & Medical Research Council (AH&MRC).

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