



About Us

Empowered Communities East Kimberley

Empowered Communities (EC) is led by Indigenous people, for Indigenous people and operates in ten regions across Australia. The Indigenous-led reform initiative is underpinned by the principles of empowerment, development, and productivity. Indigenous leaders from each region are working together with government and corporate Australia to change how Aboriginal policy is designed and delivered. It aims to shift the Indigenous affairs agenda from passive welfare and government overreach to empowerment of Indigenous individuals, families, and communities.

Empowered Communities East Kimberley (ECEK) was established in 2015 by Aboriginal leaders and has grown its opt-in membership base to include 28 Aboriginal Controlled Community Organisations (ACCOs) from across the region. ECEK drive reforms to bring about a future in which East Kimberly is a region with a sizeable Aboriginal population consisting of high-functioning families who own their own homes, who have well-educated children, who participate equally in the economy and who value their culture.

Vision

We want for our children the same opportunities and choices other Australians expect for their children. We want them to succeed in mainstream Australia, achieving educational success, prospering in the economy and living long, healthy lives. We want them to retain their distinct cultures, languages and identities as peoples and to be recognised as Indigenous Australians.

Purpose

Enduring and effective Aboriginal-led reform, which transfers power and responsibility to Aboriginal people and creates opportunity for the social, cultural and economic development of our children and families.

Binarri-binyja yarrowoo Aboriginal Corporation (BBY) is the 'backbone' organisation supporting the implementation of ECEK. Using a place based collective impact model, BBY performs key secretariat functions to support and facilitate joint action by Aboriginal organisations, government, NGOs, and corporate partners.

This submission has been developed by BBY drawing on our experience supporting the implementation of the Empowered Communities model in the East Kimberley.

For more information, please contact info@bby.org.au or (08) 9169 2272.

Binarri-binyja yarrowoo Aboriginal Corporation

Response to the Australian Government's *Justice Reinvestment Design Discussion Paper*

Discussion Questions

National Justice Reinvestment Grants Program

1. *What sort of activities should be funded through the National JR program?*

Based on our experience of implementing the Empowered Communities model in the East Kimberley, we recommend the following activities be considered for funding through the National Justice Reinvestment Grants Program:

- Funding for a locally-led backbone to coordinate, convene and support collaboration between local community and relevant government, NGO and philanthropic interests, including by developing (where needed):
 - Aboriginal-led governance arrangements (participatory governance for Aboriginal-led development)
 - Data capability, infrastructure and governance to support data-driven learning and decision-making
 - Development of a shared community-led agenda for reduction in upstream drivers of incarceration
 - Program design, policy advocacy and M&E capability to support participating organisations
- Activity funding for 'quick win' first priorities identified by the community (short-term)
- Activity funding directed to locally-led initiatives designed to address upstream drivers of incarceration (as it is defined and understood by the local community) (medium-term)
- Over time, as the reinvestment mechanism is designed and implemented, investment from the grants program would be replaced by draw-down from the JR Fund (operated at local, state or national level) (long-term)
- As identified in the Discussion Paper, and aligned with the National Agreement on Closing the Gap, initiatives backed by the National Program must be led and implemented by First Nations communities and organisations; Aboriginal Community Controlled Organisations (ACCOs) must be preferred in the grant-making process
- If Grant Opportunity Guidelines explicitly exclude infrastructure funding, consider how to support communities access relevant infrastructure funding if this is needed to implement priority initiatives

2. *How can the Government ensure the grants process is accessible to communities and organisations wanting to apply for JR funding?*

Based on observations and experience, we note the following:

- Commend the use of a capability partner to ready communities for the open grant round, but note its short duration and the relative lack of awareness of the opportunity; suggest it be extended and run in parallel with the open grant round;
- Open grant round needs wider promotion than the capability round received;
- Application process should be relatively simple (don't ask for information you don't need);
- ACCOs rarely have fully costed proposals sitting in their back pockets ready to pitch in to grant rounds (development funding is often lacking); Consider running a 2-stage

process like NIAA's ISEP (Phase 1 selected proposals to fund to full design; Phase 2 will select designs to fully fund)

3. How can the Government ensure the grants program meets the needs of those seeking funding?

The Discussion Paper makes clear that 'the Australian Government's commitment to justice reinvestment is an investment in exploring solutions outside of the criminal justice system, aimed at addressing the 'upstream' drivers of incarceration, as identified by communities'.

The Government will work closely with States and Territories on reforms to drive improvements in justice outcomes.

It is not easy to clearly delineate at a local community-level what sits 'outside and upstream' of the criminal justice system. It is anticipated that many of the initiatives that local communities will identify for funding as part of the National Justice Reinvestment Grant Program will require strong participation from state agencies (housing, child protection, policing, juvenile justice).

For the Australian Government to ensure the grants program meets the needs of those seeking funding, it will need to address in wider program design the issue of how cross-jurisdictional collaboration will function to support the implementation of JR initiatives locally.

There must be clear linkages between the place-based community-led JR initiatives and governmental reform processes at the state and national level.

4. Who should be involved in assessing applications for JR funding?

Assessment panels

Agree with the statement that Government should ensure First Nations representation on assessment panels.

Where possible, investment decisions should be shared with local-level Aboriginal leadership to ensure local knowledge. Empowered Communities and NIAA joint decision-making (JDM) is relevant here.

- Empowered Communities and NIAA joint-decision making arrangements are mature, proven and adaptable.
- Since JDM began in 2017, nine of the ten EC regions have successfully implemented their JDM process with more than 310 activities valued at over \$190 million considered
- In the Kimberley region, BBY and EC-West work collaboratively to assess whole-of-region investment
- JDM has now been extended from considering ceasing grants to new investments in a region
- In regions where Empowered Communities operates, AGD and NIAA should engage early with the local EC backbones to discuss possible application of JDM to National JR Grant Program investment decision and/or involvement in the assessment panels

Site selection

There has been some indication in discussion about the development of the National JR Program that the Australian Government may require State and Territory Governments to commit to co-investment and data sharing arrangements in JR sites.

If this is the case, there will likely be a tension between community-led site nomination and State identified priorities.

Minimum requirements for State support for site nomination should be identified in the National JR Program guidelines, to assist communities navigate Commonwealth-State relations and secure necessary authorities.

Alternatively, the application assessment process should build in a facilitated discussion between Australian Government, relevant state or territory government and ACCO applicants.

Where State co-investment and data-sharing arrangements are unlikely to be forthcoming, ACCOs need to have the opportunity to make a clear-eyed, well-informed decision about the risk and benefits in proceeding.

5. How should the success and development of JR initiatives be measured?

There is plenty of emerging practice in the measuring the success of systemic change initiatives.

Frameworks from other place-based initiatives should be relied on to guide development of success measures in funding agreements under the grant program.

Early-stage success measures will focus on backbone establishment, development of data work, development of shared agenda, etc.

Measurement of changes at population level is long-term, generational work (but must be planned for in early stages of the initiative).

NIAA has developed staged deliverables for Empowered Communities Backbone funding. The expectations in year 1 of implementation look very different from those in year 6. BBY would be happy to share these on request.

National Justice Reinvestment Unit

6. How can the National Unit best support JR in Australia?

The *Empowered Communities: Empowered People Design Report* proposed the establishment of an Indigenous Policy Productivity Council (see pages 79-84). Functions and governance of the IPPC were explored in the report and would be useful to consider when designing the National JR Unit. The IPPC proposed by Empowered Communities was not taken up and developed by Government.

Our experience of implementing the Empowered Communities model over seven years is that the pace and reach of structural and practical reforms we are seeking has been slow and difficult without the support of an 'independent umpire'.

The two attached papers set out these challenges in more detail and are provided for you as background:

- EC Lessons Learned (unpublished, 2019)
- EC Submission to Indigenous Voice Co-design Process (2021)

7. What functions or services should the unit provide?

The functions proposed by the ALRC for the unit are sound, namely:

- Providing technical expertise in relation to justice reinvestment initiatives
- Assisting in developing justice reinvestment plans in local sites
- Maintaining a publicly accessible database of evidence-based justice reinvestment strategies
- Embodying Aboriginal and Torres Strait Islander leadership and expertise at all levels

Based on our experience of implementing the Empowered Communities model in the East Kimberley, we suggest several additional functions be considered:

- Inquiring into specific policy questions raised by local JR initiatives (e.g. design and administration of reinvestment mechanisms)
- Supporting local sites broker data access agreements
- Supporting sites to navigate cross-jurisdictional issues impacting on the implementation of local JR initiatives
- Working with the Justice Reinvestment network to provide strong linkages between local JR sites and state and national processes such as the Justice Policy Partnership
- Sector strengthening for the Justice Reinvestment network

8. How should the Unit be structured and governed?

The governance of the National Unit should establish and maintain a structural link to local JR sites, to ensure it remains responsive to emerging needs and priorities in the communities it serves.

9. Where should the Unit be located?

There are risks and benefits in locating the unit in Canberra. Ease of access to the legislative and executive arms of government, national peaks and other important ATSI institutions would enable the unit to host visiting delegations from local communities and facilitate access to policymakers. However, the proximity of policymakers to the unit creates a risk of displacing direct relationships between Australian Government, State Governments and local Aboriginal leadership in JR sites.

Locating the unit in a region to promote close working relationships with regional and remote communities is a good option to consider. From a northern perspective, Darwin is easily accessible from most locations in Northern Australia and is one flight away from all capital cities.

Contact

For more information, please contact info@bby.org.au or (08) 9169 2272.