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OCHRE LOCAL DECISION MAKING STAGE 2 ACCORDS NEGOTIATION: MURDI PAAKI REGIONAL ASSEMBLY ACCORD II NEGOTIATION EVALUATION REPORT

M. O'BRYAN, F. MARKHAM AND M. HARRINGTON

Series note

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OCHRE Local Decision Making Stage 2 Accords Negotiation: Murdi Paaki Regional Assembly Accord II Negotiation Evaluation Report

M. O'Bryan, F. Markham and M. Harrington

Abstract

This report presents the findings of an evaluation of the negotiation of the Murdi Paaki Local Decision Making Accord II (hereafter referred to as Accord II). The evaluation was conducted by researchers from the Centre for Aboriginal Economic Policy Research (CAEPR), and its findings are based on their independent assessment of the data collected.

This evaluation finds that the Murdi Paaki Regional Assembly (MPRA) is a model of strong governance. MPRA has been part of the Local Decision Making (LDM) program since its inception in 2013 and, in 2015, became the first Regional Alliance to sign an Accord with the NSW Government. This cumulative experience has resulted in increased community understanding of the function and importance of Accords negotiations.

Self-determination, Aboriginal governance, genuine voice, and improved relationships are positives of the Accord negotiation process. While the pre-Accord negotiation phase could be better resourced, it is working well. This evaluation finds that progress is being made in implementing Accord II, although this progress is uneven across agencies.

Contributors to this evaluation believe that identified improvements will enable the LDM process to respond to regional and local contexts and support local communities to determine their own priorities and make decisions which will ultimately achieve better outcomes for those communities.

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Acronyms

AANSW	Aboriginal Affairs New South Wales
AECG	Aboriginal Education Consultative Group
ATSIC	Aboriginal and Torres Strait Islander Commission
ANU	Australian National University
CAEPR	Centre for Aboriginal Economic Policy Research
CIRCA	Cultural and Indigenous Research Centre Australia
CWP	Community Working Party
IWAAC	Illawarra Wingecarribee Alliance Aboriginal Corporation
LDM	Local Decision Making
MPRA	Murdi Paaki Regional Assembly. MPRA is the Aboriginal Regional Alliance of the Murdi Paaki region
MPSL	Murdi Paaki Services Ltd
NCARA	NSW Coalition of Aboriginal Regional Alliances
NSW	New South Wales
OCHRE	Opportunity, Choice, Healing, Responsibility, Empowerment
SPRC	Social Policy Research Centre (University of New South Wales)

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Executive Summary

The Centre for Aboriginal Economic Policy Research (CAEPR) at The Australian National University (ANU) is currently conducting the *OCHRE* Local Decision Making (LDM) Stage 2 Evaluation (2019–2023). In the course of this work, Aboriginal Regional Alliances and Aboriginal Affairs New South Wales (AANSW) expressed a desire for a more rapid evaluation of the process of negotiating Accords (or Agreements) between Aboriginal Regional Alliances and the NSW Government (hereafter referred to as Accord Negotiation Evaluations). Conducted within a short timeframe, the objective of Accord Negotiation Evaluations was to increase understanding of LDM Accord negotiation processes. This includes identifying the strengths of the process, the challenges encountered, strategies for addressing these challenges, and opportunities for improvement. In all, CAEPR has evaluated three Accord negotiation processes: Barang Accord negotiation, Riverina Murray Regional Alliance Accord negotiation, and Murdi Paaki Regional Assembly (MPRA) Accord II negotiation. They have also produced a report that synthesises findings from these and previous Accords Negotiation Evaluations conducted by the Cultural and Indigenous Research Centre (CIRCA) in 2015 and the University of New South Wales' Social and Policy Research Centre (SPRC) in 2018.

This report presents the findings of the negotiation of the MPRA LDM Accord II (hereafter referred to as Accord II). This evaluation was conducted by researchers from CAEPR, and its findings are based on their independent assessment of the data collected. This included observations of a meeting between government and Murdi Paaki Regional Assembly (MPRA) negotiators held on July 27, 2021; a focus group discussion with six MPRA delegates held on July 28, 2021; in-depth interviews conducted between August and October 2021 with nine NSW public officials involved in negotiations; minutes from meetings held as part of the Accords negotiation process (Accord I and II); and documents about the *OCHRE* and LDM policies published by the NSW Government.

The findings of this report have been informed and developed through engagement with negotiating parties from both the MPRA (Murdi Paaki Accord Negotiators), the public sector (Lead Agency Negotiators), and the Independent Facilitator.

Under the LDM initiative, NSW Government agencies will change the way they work with Aboriginal communities. NSW Government agencies will work in partnership with participating regional alliances to build community strengths and address key priorities. With LDM, sharing decision-making between government agencies and regional alliances means changing the way agencies design, fund and implement their services and programs. Agencies and staff have to respond to community needs and priorities, changing the way they work, and developing new ways of doing business. This will mean training and developing new skills for government staff as well as Aboriginal communities (AANSW, 2017b, p. 9).

According to the Local Decision Making Information Package published by Aboriginal Affairs NSW (AANSW), 'The ultimate aim of Local Decision Making is to ensure Aboriginal communities have a genuine voice in determining what and how services are delivered to their communities' (AANSW, n.d.b). The same document states that 'Accords are the mechanism for re-defining the relationship between the NSW Government and Aboriginal regional alliances.'

The LDM Policy and Operational Framework provides a clear set of principles for government agencies entering into Accord negotiations that includes sharing decision-making and working in partnership with regional alliances to respond to community needs. The Premier's Memorandum *M2015-01-Local Decision Making* provides the authorising environment for government agencies to participate in LDM.

It is against these aims that the Murdi Paaki Accord II is measured.

This evaluation finds that MPRA is a model of strong governance. While the Accords recognise MPRA as a legitimate regional Aboriginal governance body, it was originally established in 1990 under the auspices of

Aboriginal and Torres Strait Islander Commission (ATSIC), before being constituted in 2004 to represent the same region, but with equal representation for each of the 16 communities, which together form the Assembly (Katz et al., 2018a, p. 42; MPRA, 2019b, p. 41-44). MPRA has been part of the LDM program since its inception in 2013 (Katz et al., 2018a, p. 52) and, in 2015, became the first Regional Alliance to sign an Accord with the NSW Government. This cumulative experience has resulted in increased community understanding of the function and importance of Accords negotiations.

This Accord Negotiation Evaluation found that self-determination, Aboriginal governance, genuine voice, and improved relationships are positives of the Accord negotiation process. It also found that while the pre-Accord negotiation phase could be better resourced, it is working well.

The key findings are as follows:

1. Substantive but uneven progress has been made towards implementing commitments under Accord II.

2. There is a demonstrated increased capacity to negotiate and implement Accord II from both government officials and MPRA.

3. The negotiation of Accord II provided MPRA with an opportunity to hold agencies to account over commitments made in Accord I.

4. The degree to which Accords foster innovation is questionable.

5. Public officials sometimes struggle to navigate overlapping policy frameworks and engagement structures.

6. Government buy-in to the Accord implementation process is uneven between and within agencies and is perceived to be waning.

7. Communication and negotiation difficulties remain in the Accord negotiation and implementation process.

8. The lack of transparency and flexibility regarding Government funding arrangements hampers Accord negotiations.

9. Lead Agency Negotiators lack the necessary decision-making authority at times, particular with regard to expenditure.

10. Timely access to data is uneven and questions about its relevance and accuracy remain.

11. Accord II provided an opportunity for negotiating parties to further develop the personal and institutional relationships that are at the centre of LDM.

While these findings clearly point to limitations, they also provide a clear path forward either through closer adherence, and even improvements, to the Premier's Memorandum and LDM Policy and Operational Framework. This is necessary to facilitate more effective ways of working with Aboriginal Regional Alliances to share knowledge and power, improve collaboration and negotiation, and prioritise genuine partnerships. Contributors to this evaluation believe that these identified improvements will enable the LDM process to respond to regional and local contexts and support local communities to determine their own priorities and make decisions, and ultimately, achieve better shared outcomes for communities.

Background

OCHRE

The *OCHRE* (Opportunity, Choice, Healing, Responsibility, Empowerment) Plan is the New South Wales (NSW) Government's strategy for addressing Aboriginal disadvantage. *OCHRE* was developed between 2011 and 2013 in response to shortcomings of Aboriginal Affairs NSW's (AANSW's) Two Ways Together Plan, which was in place from 2003 to 2012. In a Performance Audit of Two Ways Together, the NSW Auditor-General found that, as of 2011, the plan 'ha[d] not delivered the improvement in overall outcomes for Aboriginal people that were intended', and that 'the disadvantage still experienced by some of the estimated 160 000 Aboriginal people in NSW is substantial' (Audit Office of NSW, 2011). Crucially, the audit noted that 'Aboriginal communities were best placed to make decisions about their day-to-day lives and recommended continued support for community governance bodies' (NSW Government, 2013).

Accordingly, in 2011, a Ministerial Taskforce on Aboriginal Affairs was established by the NSW Premier and the Minister for Aboriginal Affairs 'to inform a new plan to improve education and employment outcomes for Aboriginal people in NSW and to enhance service delivery to support these goals' (NSW Government, 2013). The Taskforce recommended that there be 'a strong Aboriginal voice in design and delivery, including the establishment of an independent Aboriginal Council' (NSW 2013). To address the recommendations of the Performance Audit at the Ministerial Taskforce, *OCHRE* was developed (AANSW, n.d.a).

The stated aim of *OCHRE* is 'to support strong Aboriginal communities in which Aboriginal people actively influence and participate fully in social, economic and cultural life' (AANSW, n.d.a). It identifies six ways to achieve this aim:

- teach more Aboriginal languages and culture to build people's pride and identity

- support more Aboriginal students to stay at school

- support more Aboriginal young people to get fulfilling and sustainable jobs

- grow local Aboriginal leaders' and communities' capacity to drive their own solutions

- focus on creating opportunities for economic empowerment

- make both government and communities more accountable for the money they spend.

OCHRE goes beyond the idea of Aboriginal people having a place at the table and a right to be involved in making decisions. It also seeks to encourage development of Indigenous-led institutions to negotiate community-led solutions that further this agenda and change the relationship between the NSW Government and Aboriginal communities.

Local Decision Making

The Local Decision Making (LDM) initiative is one of eight initiatives supported by the NSW Government as part of *OCHRE*. Its stated purpose is to 'give Aboriginal community-based regional decision-making groups (Regional Alliances) an increased say in government service delivery' (AANSW, 2017b, p. 5).

According to the 'Local Decision Making Information Package' published by AANSW, 'The ultimate aim of Local Decision Making is to ensure Aboriginal communities have a genuine voice in determining what and how services are delivered to their communities' (AANSW, n.d.b, p. 8).

Through LDM, Aboriginal community-based regional decision-making groups known as Aboriginal Regional Alliances or Regional Assemblies negotiate formal and binding agreements (Accords) with NSW Government agencies that influence how and what government services are delivered to regional Aboriginal communities.

The Accords

According to the NSW Government policy document titled 'Accord Process: Accord Readiness, Negotiation and Commencement':

> *Local Decision Making aims to change the relationship between Aboriginal communities and government and give Aboriginal communities' greater decision-making powers in relation to how government programs and services, which impact on them, are conceived, developed and implemented. The Accord is the vehicle for re-setting this relationship and ensuring that decision-making between government and communities occurs collaboratively and in partnership (AANSW, 2017a, p. 6).*

Accords are the central mechanism for negotiating the staged devolution of decision-making and accountability to Regional Alliances under the LDM policy. While the specific content of Accords varies from site to site, Accords generally include identified priorities, actions, outcomes, timeframes, resources, responsibilities, and measures of success. The 'Premier's Memorandum M2015-01-Local Decision Making' (NSW Government Department of Premier and Cabinet, 2015) provides the enabling framework for LDM and requires that Accords be negotiated between Aboriginal Regional Alliances and 'senior officers with sufficient delegation and authority'. It also states that, 'agencies will work respectfully, constructively and cooperatively with LDM regional alliances'; that negotiations must take place in good faith; and obliges government agencies to share information with Regional Alliances (see also AANSW, 2017b, p. 20). No legislation has ever been enacted to underpin LDM or Accord-making.

LDM and Accord negotiations are currently taking place in several regions across NSW. The first Accord to be negotiated and confirmed under the LDM initiative was with the Murdi Paaki Regional Assembly (MPRA), and was signed on February 19, 2015 – this Accord is referred to in this report as Accord I. Further Accords have since been negotiated and signed with at least three other Aboriginal Regional Alliances, as well as the NSW Coalition of Aboriginal Regional Alliances (NCARA). Each region participating in LDM is at a different stage in the Accord negotiation process.

Accords establish the terms under which regional alliances and the NSW Government will work together to achieve the goals of LDM and *OCHRE*. Accords are intended to:

- re-define the relationship between government and LDM communities, where information and decision-making are shared

- direct service delivery redesign and reinvestment according to the needs and priorities defined and negotiated between government and regional alliances

- demonstrate to communities the commitment by government agencies to the aims and objectives of Local Decision Making (AANSW, 2017a, p. 6; see also AANSW, n.d.b).

Figure 1: NSW Government document outlining the steps of an LDM Accord Negotiation
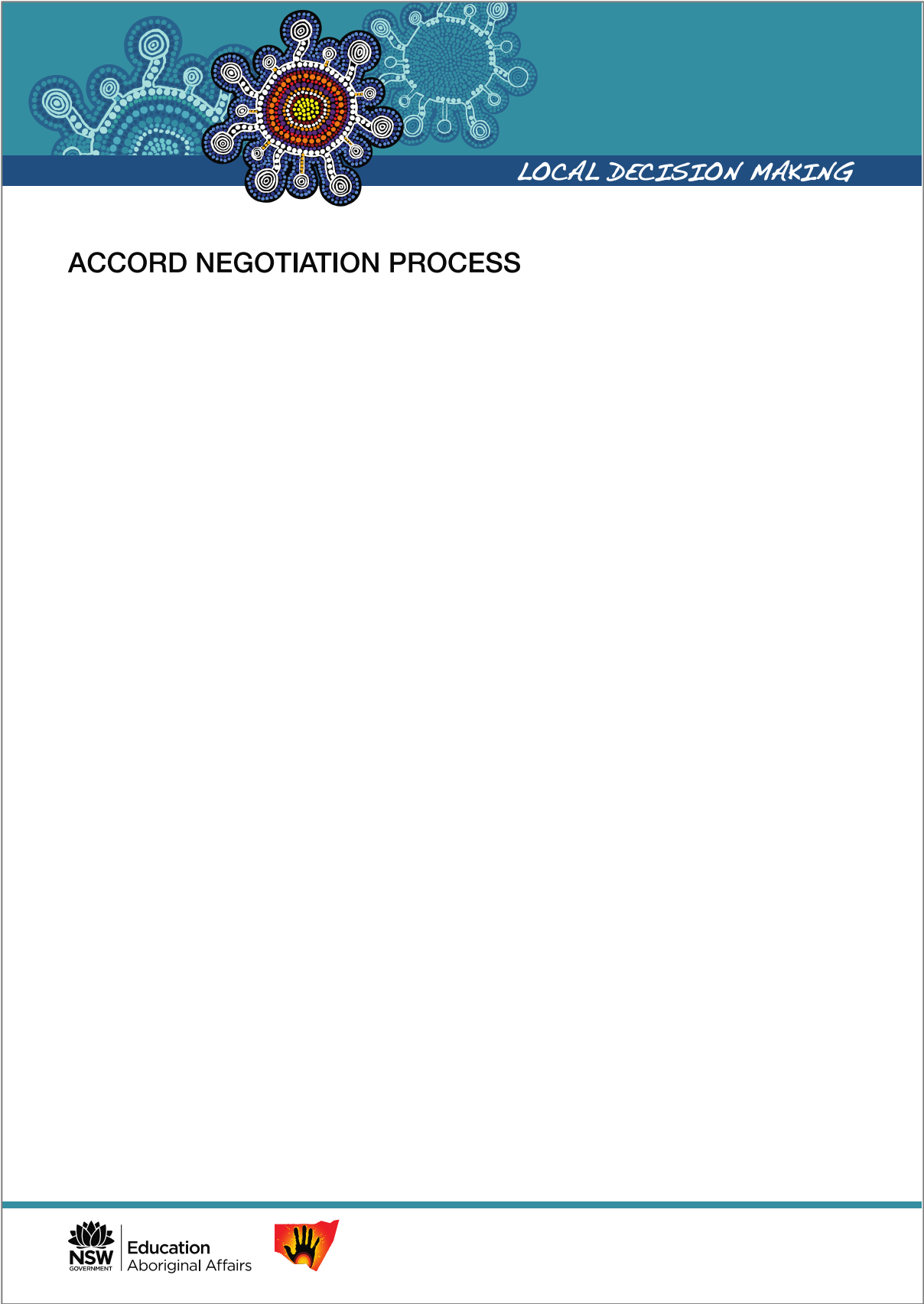
Murdi Paaki Regional Assembly Accords negotiations

Figure 2: The Murdi Paaki Region
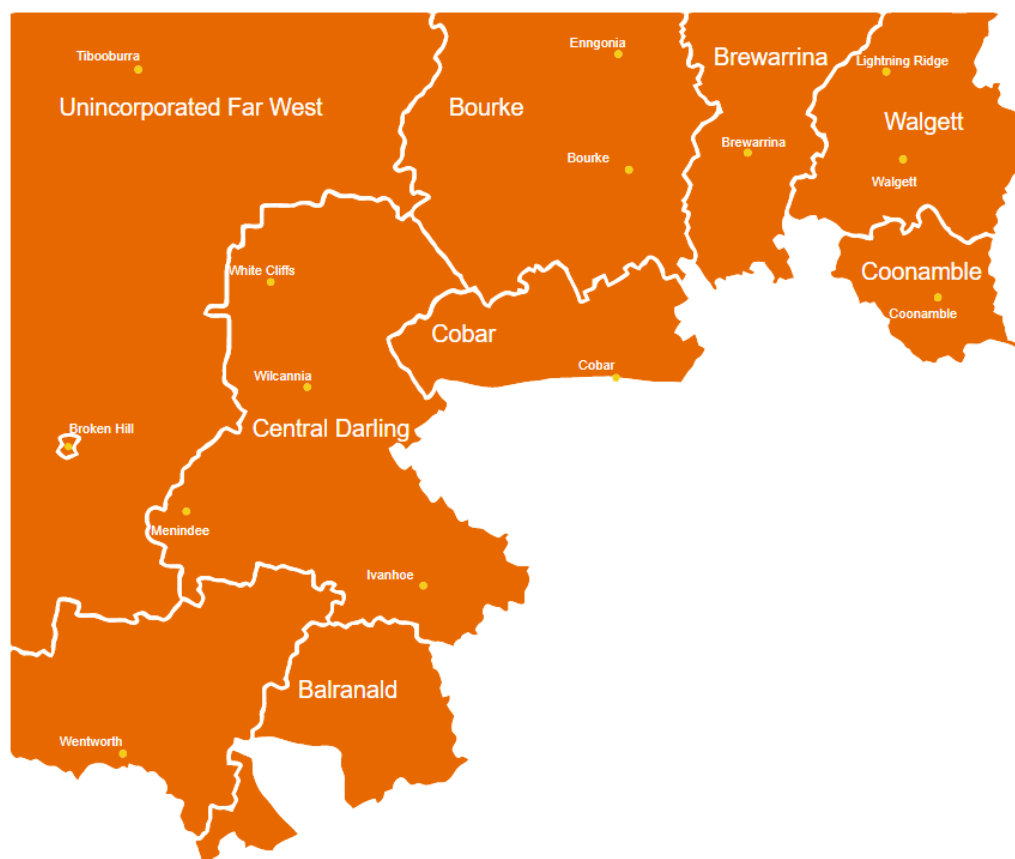
Source: mpra.com.au

About the Murdi Paaki Regional Assembly

The MPRA has long been a pioneer of regional Aboriginal governance. While the Murdi Paaki Regional Council was established in 1990 under the auspices of the Aboriginal and Torres Strait Islander Commission (ATSIC) under a 'one-vote one-value' framework, MPRA was constituted in 2004 to represent the same region, but with equal representation for each of the 16 communities (Katz et. al., 2018a, p. 42; MPRA, 2019b, pp. 41-44). To ensure that each community has an equal voice, the Assembly is comprised of one delegate each from 16 Community Working Parties (CWPs), each representing one of the 16 towns in western and northern NSW, including: Bourke, Brewarrina, Broken Hill, Cobar, Collarenebri, Coonamble, Engonia, Goodooga, Gulargambone, Ivanhoe, Lightening Ridge, Menindee, Walgett, Weilmoringle, Wentworth/Dareton, and Wilcannia (MPRA, n.d.c). These CWPs, which are the backbone of MPRA, determine community priorities, and negotiate service delivery agreements with government agencies (MPRA n.d.c). The Assembly is also chaired by an independent representative who lives in an MPRA community but whose role is region wide. The Assembly is not legally incorporated as an Aboriginal corporation, company or association.

Figure 3: The Murdi Paaki Journey
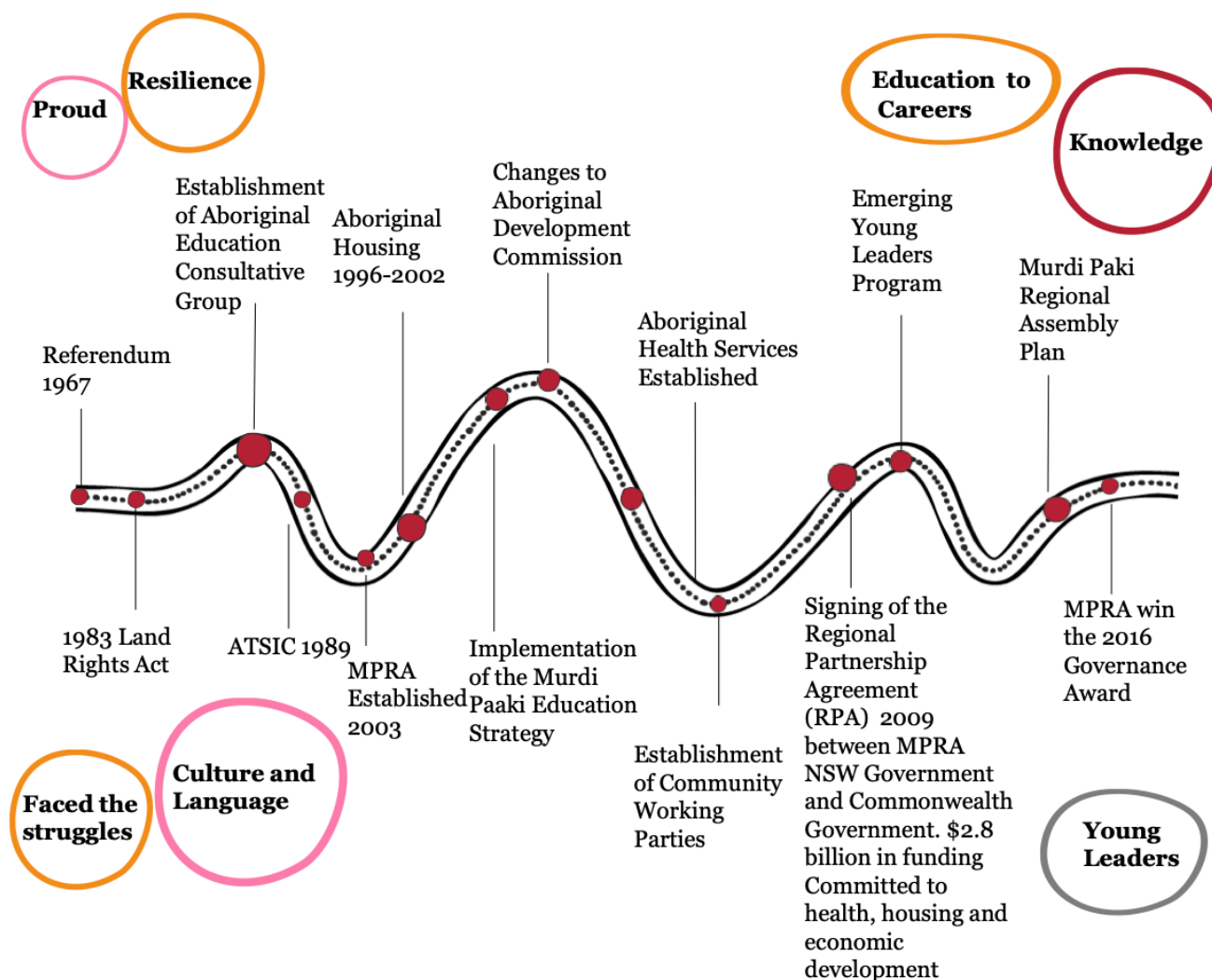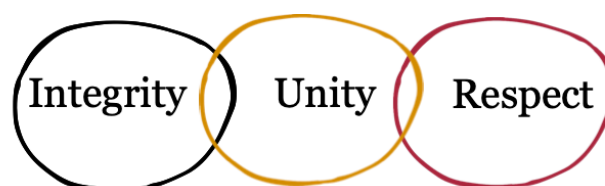

Source: MPRA, 2021, p. 4.

Since its inception, MPRA has been committed to best practice in governance, advocacy and in asserting its political identity. In its 2016 Regional Plan, the Assembly acknowledged the need for greater accountability in its Aboriginal institutions and organisations. Former MPRA chairperson Sam Jeffries observes:

> At one level, the history of the Murdi Paaki Regional Assembly, with its origins in Community Working Parties, is a case study in Indigenous governance. It involves four key elements: community control, engagement with government, improved service delivery, and cultural legitimacy. At another level it is about the way leadership, community participation, and coordination of government interventions, inspired and driven by community initiative, came together to improve community and individual wellbeing and helped shape future government activities (Jeffries & Menham, 2004, p. 1).

Consistent with these observations, in its Charter of Governance, MPRA (n.d.a.) commits to provide the highest standard of governance, accountability, advocacy, and direction and support the principles of responsibility, strong leadership, commitment and partnership. It declares that community governance is the essential element in returning responsibility to the people of the region. MPRA's governance standards were acknowledged by

experts in 2016 when it was recognised as the winner of Reconciliation Australia's Indigenous Governance Awards (Reconciliation Australia, n.d.).

Figure 4: MPRA core principals

Source: MPRA, 2021, p. 14.

In terms of its practical objectives, MPRA has 'a long and proud history of prosecuting a visionary agenda for regional autonomy and self-determination in the Murdi Paaki Region' (MPRA, 2016, p. 2). Central to this is an awareness of the importance of economic participation and the need for investment in enterprise. MPRA's statement of intent is:

> To establish Aboriginal jurisdiction in the Murdi Paaki Region based on recognition of our human rights as Aboriginal peoples, political, social and cultural respect for Aboriginal and Torres Strait Islander people in Australian society, and equitable participation in the socio-economic development of the region (MPRA, 2016, p. 2).

Although these objectives have remained a constant for MPRA over decades, in its 2016 Regional Plan, the MPRA observed:

> Notwithstanding the rhetoric of partnership which has been at the forefront of Government-initiated discourse over the 26 years of Aboriginal representation in the Murdi Paaki Region, true partnership has rarely been a reality. Lack of resourcing to Aboriginal representative bodies has ensured that MPRA has never had the ability to negotiate with governments as an equal partner. The power imbalance which results from unequal resource capacity has constrained Aboriginal agency and has frustrated our ability to prosecute a transformative agenda. It is thus seen as fundamental that MPRA be provided with the economic means necessary to equalise the balance of power in our interactions with Governments. A revised power structure will carry with it Government respect for Aboriginal agency; increasing autonomy for our institutions; and clear and parallel pathways for negotiation: elected arm with elected arm, and operational arm with operational arm (MPRA, 2016, pp. 4–5).

The MPRA's commitment to sovereignty and self-determination is reflected in its Charter of Governance and the focus on ensuring that the Assembly has 'the capacity and authority to make the decisions on all matters affecting our well-being, including the way government agencies meet their responsibilities for providing services' (MPRA, n.d.a., p. 6).

MPRA is not a body that undertakes service delivery directly, although MPRA incorporated a related company Murdi Paaki Services Ltd (MPSL) in 2016. MPSL was established in part to provide governments with improved opportunities to innovate and invest in Aboriginal people of the Region (Murdi Paaki, 2016, p. 3). Through MPSL, MPRA is positioned not only to negotiate with respect to government service delivery but to directly undertake contracted work itself. The MPSL objectives include the facilitation, development and progressive delivery of the regional strategic agenda; applying for negotiating and receive funding for priority projects of regional significance; sourcing, collating and interrogating information in relation to allocation of resources to the Region and identifying gaps, inefficiencies and inequities.

The MPRA 'action areas' cover heritage and culture, regional resourcing and capability, democracy, leadership and citizenship, economic development, law and justice, early childhood and school education, housing and infrastructure, and wellbeing (MPRA, n.d.b). MPRA determines its agenda every five years through a regional planning process, with the most recent plan published in 2016 (MPRA, 2016). In many instances it is anticipated that the regional plan is to be realised through partnerships with other entities. As MPRA's Charter of Governance states:

> *The Regional Assembly commits to work in partnership with government and non-government agencies to plan, coordinate and deliver appropriate, culturally diverse, high-quality programs, equitable and services [sic] to the people of the Murdi Paaki region (MPRA, 2015, p. 6).*

This commitment is not only directly related to the goals of LDM, but to MPRA's definition of self-determination as, 'the capacity and authority to make the decisions on all matters affecting our well-being, including the way government agencies meet their responsibilities for providing services' (MPRA, 2015, p. 6).

Murdi Paaki and LDM Accord Negotiations

MPRA has been a part of the LDM program since its inception in 2013 (Katz et al., 2018a, p. 52). In 2015, MPRA became the first Regional Alliance to sign an Accord with the NSW Government. Then, in 2018 and within the framework of LDM, the Murdi Paaki Social Housing Agreement was signed. Under the agreement, the Regional Aboriginal Housing Leadership Assembly was established, and granted $15 million remaining from the National Partnership Agreement on Remote Indigenous Housing to address housing issues in the region (AANSW, n.d.c). Under the Social Housing Agreement, MPRA undertook a detailed research project to direct this limited funding pool in ways that accorded with community aspirations.

On September 9, 2020, a second Accord was signed between the NSW Government and MPRA (AANSW, n.d.c). It is this Accord – referred to in this report as Accord II – that is the primary subject of this evaluation.

The Preamble to Accord II acknowledges that the history of 'dispossession and controlling practices' by previous governments has given rise to 'a need to heal and regain confidence and capacity' (NSW Government & MPRA, 2020 p. 1). Accord II was drafted 'in recognition of the limitations of the initial Accord,' and with a commitment to full partnership and mutual accountability (NSW Government & MPRA, 2020 p. 2).

Accord II stipulates that in implementing the agreement, Aboriginal owned and operated service organisations and enterprises in the MPRA region will be given 'primacy' (NSW Government & MPRA, 2020 p. 2). Accord II was signed and published prior to the negotiation of the Schedules to the Accord. The Schedules describe the agreed objectives to achieve under the Accord and specific government commitments that will work toward those objectives. Accord II Schedules were agreed, and these unpublished agreements include the following objectives, each of which encompass a number of itemised commitments.

Economic development

- Promote Aboriginal business and employment opportunities in the Murdi Paaki region
- Develop pathways to trade-related employment aligned to NSW capital investment in the Murdi Paaki region
- Develop a Workforce Strategy in Health and Education
- Develop a strategy to promote effective working relationships for Government employees working in MPRA communities
- Participation in an annual meeting with Murdi Paaki Regional Assembly

Education

- Young Aboriginal people in the Murdi Paaki region feel culturally safe and supported at school

- Increased retention rates of young Aboriginal people attending and remaining at school in the Murdi Paaki region

- Increased rates of young Aboriginal people in the Murdi Paaki region attaining their Higher School Certificate

Law and justice

- Reduced number of young people in out-of-home care

- An untitled objective that aspires to ensure MPRA has a voice in service planning, procurement and guideline development by the Department of Law and Justice

Health

A separate proposal was also developed by Western NSW Local Health District under the Accord II framework.

The Aims and Objectives of the Evaluation ('rapid review') of the Accord Negotiation process

The Centre for Aboriginal Economic Policy Research (CAEPR) at the Australian National University (ANU) was commissioned by AANSW to undertake the Stage 2 Evaluation of LDM. LDM is an initiative under the AANSW *OCHRE* Plan. This co-designed, participatory evaluation is taking place over four years, from 2020 to 2023 (including COVID related interruptions).

During this period, in discussions with Aboriginal Regional Alliances, and AANSW, a desire emerged for a more rapid evaluation of a particular part of the LDM program: the process of negotiating Accords (or Agreements) between Aboriginal Regional Alliances and the NSW Government. AANSW contracted CAEPR to evaluate Accord negotiations in five LDM sites (represented by five Aboriginal Regional Alliances, including the MPRA) over a period of five months. In summary, the major differences between the Negotiations Review and the LDM Evaluation is that the Negotiations Review:

- is smaller in scale (in terms of the research team, the research sites, the number of participants, and research outputs)

- has a narrower research focus, evaluating only the Accord-making process, and

- is operating within a much shorter timeframe.

The research team was to focus the evaluation on the three phases of Accord negotiation outlined above: the pre-negotiation phase, the negotiation phase (including pre-Accord workshops and formal Accord negotiation), and the post-negotiation phase (including Accord implementation).

This three-phased approach will address the aims of the evaluation, which are to build an evidence base to increase understanding of regional agreement-making processes such as the LDM Accord negotiation processes; and to identify the strengths of the process, the challenges encountered, strategies for addressing these challenges, and opportunities for improvement.

The Negotiations Review has importance beyond the LDM initiative itself, arriving at an important moment in Indigenous public policy in Australia. In July 2020, all Australian governments committed to share decision-making authority with First Nations peoples through policy and place-based formal partnership arrangements in the National Agreement on Closing the Gap. Consequently, hard-won lessons from the evaluation may inform

the development of place-based agreements between Australian governments and First Nations polities both within NSW and across Australia. As these agreements are a key feature of planned process for Closing the Gap (i.e., improving Indigenous health, socioeconomic and cultural outcomes), knowledge which informs the agreement making-process may have flow-on benefits to other domains.

In order to support these broad aims, the Negotiations Review will respond to the following research questions. Additional research questions that ought to be answered will be discussed with research participants prior to and/or during interviews.

1. What was the history of the Alliance and how did this impact on the operation and outcomes of the negotiations?

2. Who were the key individuals that negotiated the Accord? What was their role in the negotiations process?

3. Could both parties access the same information, and was the negotiation process transparent for both throughout the entire negotiation period?

4. Have any of the learnings from previous negotiations of Accords been applied to negotiation process, and which learnings? What was the impact?

5. What were the governance structures for the government parties in negotiating with each Alliance and vice versa? What were the strengths, weakness, and challenges and how were they overcome?

6. What was the negotiation process? What were the strengths, weaknesses, and challenges for the parties in the process, and how were these overcome?

7. To what extent did government officials and Alliance members participating in negotiations understand LDM and Accord making, including their roles and responsibilities?

8. What were the positions held by the parties to the negotiation (e.g., seniority, paid or unpaid)? How many hours of their time was spent in preparing for and participating in the Accord negotiations? What did each party do during the process and feel responsible for? What were the challenges encountered in performing this role, including power to contribute, and undertaking this role in additional to their ongoing work? Did participants feel they had the knowledge, skills, and support to actively participate in the negotiations? If not, what would assist?

9. To what extent did government officials have the delegated authority to make decisions at the negotiating table?

10. Were there any other factors that impacted on the negotiations throughout the entire process?

11. What were the personal outcomes for each party to the negotiation as a result of being involved in the negotiation? If there were personal outcomes, does the individual believe this will change their approach in similar circumstances?

12. Has the Accord negotiation process changed or influenced the relationships between parties involved and, if so, in what ways?

13. What adjustments, resources, or capabilities do the parties to the negotiation believe are required to improve the outcome, including structure, process, or roles (including administrative, policy, and or legislative powers or processes)? Is a different structure of process needed? If yes, what would this look like?

14. Did the negotiation process meet participant expectations?

These questions came with the caveat that, 'before commencing each evaluation the contractor will confirm the relevance of the questions specified in 3.11 with the parties involved' (Service Agreement, p. 7, para 3.12).

The research team has already established relationships with each Aboriginal Regional Alliance as part of the broader LDM Evaluation: either directly, with Regional Alliances that are actively participating in the LDM Evaluation (MPRA and Three Rivers Aboriginal Alliance); or indirectly, with Regional Alliances that are members of the NSW Coalition of Aboriginal Regional Alliances (NCARA), which is actively participating in the LDM Evaluation (Riverina Murray Regional Alliance and Barang).

This evaluation has importance beyond the LDM initiative. It comes at an important moment in Indigenous public policy in Australia. At federal level, the final report of the proposed Indigenous Voice to the Australian Government includes proposals for 'Local and Regional Voices' modelled in part on MPRA, whose functions will include 'shared decision-making' with governments (Langton & Calma, 2021). The lessons from this evaluation will be valuable for any future implementation of the proposed Local & Regional Voices. With the signing of the new National Agreement on Closing the Gap in July 2020, all Australian governments (local, state and federal) have committed to share decision-making authority with First Nations peoples through policy and place-based formal partnership arrangements. How this national policy corresponds with LDM has not been clearly articulated, and this has given rise to confusion and concern about the future of LDM within the MPRA region, where LDM is in its sixth year of operation (Dreise et al., 2021). This issue is discussed further as part of Finding 5.

Approach

This evaluation was informed by principles of reciprocity that are essential to undertaking research about and for Indigenous communities. It had a particularly rapid turnover time in comparison to other similar research, preventing a 'true' process of co-design with participants (see Schwab, 2021). Consent from the MPRA for their participation was given in July 2021, and the report draft began in September, after two months of meeting observation, discussion groups and interviews.

The MPRA Accord Negotiation rapid evaluation was undertaken by a team of three researchers from CAEPR: Dr Marnie O'Bryan, Dr Francis Markham, and Dr Morgan Harrington with guidance from Professor Tony Dreise, Associate Professor Bill Fogarty and Associate Professor Deirdre Howard-Wagner.

Marnie O'Bryan is a non-Indigenous woman and Research Fellow at CAEPR. She is also Co-Chair of the Indigenous Literacy Foundation. Her book, *Boarding and Australia's First Peoples: Understanding how residential schooling shapes lives*, was recently published by Springer-Nature as part of their Indigenous-Settler Relations in Australia and the World series.

Francis Markham is a non-Indigenous man and Research Fellow at CAEPR. He has been conducting policy research with and for First Nations people in Australia since 2018. His current research investigates questions related to geography and public policy relating to Aboriginal and Torres Strait Islander peoples.

Morgan Harrington is a non-Indigenous man and Research Fellow at CAEPR. He has held positions as a 'Working-on-Country' manager for the Ngaanyatjarra Land Council, as a Research Fellow at the National Library of Australia, and as a lecturer in anthropology and development studies at ANU. Prior to obtaining his PhD, Morgan worked as a journalist in India and Indonesia.

Method

The research team was invited to observe negotiations between MPRA and the NSW Government regarding the implementation of Schedules under Accord II in July 2021. Subsequently, they participated in a focus group discussion with six members of the MPRA and carried out semi-structured interviews with nine public officials involved in the negotiations of Accord II, and two independent consultants who had worked across different Regional Alliances. Participants were given access to interview transcripts and provided an opportunity for them

to be corrected where factually incorrect, or amended where participants felt it was necessary to do so. The researchers also met with MPRA members to validate the findings. Interview data was transcribed and analysed by members of the research team to identify recurring themes and significant insights. This was achieved through thematic coding.

In addition to interviews, a review of documents – including minutes of Accord meetings, NSW policy statements, and documents produced by the MPRA – was conducted. However, access to documentation was an issue and some documents, including minutes of some meetings, were not provided to the research team.

Informed consent

The key participants in this evaluation included Aboriginal people and organisations involved in negotiating the Accord Agreement on behalf of Murdi Paaki; and public officials with responsibility for negotiating the Accord on behalf of NSW Government agencies and departments. All individuals who participated in focus group discussions or semi-structured interviews were provided a project information sheet prior to the face-to-face, Zoom or telephone meetings, and all gave permission via an informed consent agreement.

We sought engagement from Regional Alliances on terms suitable to them, and provided members of the MPRA and NSW Government negotiators with a chance to review a draft of this Report. In line with principles of data sovereignty, we believe that this report and others should be provided to Regional Alliances for their own purposes, including public distribution.

Methodological limitations

This evaluation was informed by principles of reciprocity that are essential to undertaking research about and for Indigenous communities. However, the contractual arrangements and short turnaround time required for this study prevented a true process of co-design with participants (see Schwab, 2021). This evaluation had a relatively short timeframe in comparison to other similar research, designed to inform ongoing negotiations rather than to provide in-depth insights. MPRA agreed to participate in the research in July 2021, and drafting of this report began in October, after almost four months of interviews. By comparison, the evaluation of the first Murdi Paaki Accord took two years of research (Katz et al., 2018a, p. 1).

This rapid evaluation sat within the wider MPRA evaluation being undertaken by CAEPR. The research for this report was principally shaped by the Service Agreement with the NSW Government. It was guided by the list of questions listed in this agreement (see above). These questions came with the caveat that, 'before commencing each evaluation the contractor will confirm the relevance of the questions specified in 3.11 with the parties involved' (Service Agreement, p. 7, para 3.12). With this in mind, Researchers involved in this evaluation began interviews by establishing what was most relevant to negotiating parties including government negotiators and members of The Murdi Paaki Regional Assembly.

This evaluation encountered two other methodological obstacles: an incomplete dossier of documentation relevant to The Murdi Paaki Regional Assembly; and the effects of the COVID-19 pandemic.

Incomplete documentation

A learning from previous Accord Negotiations Evaluations that has not been applied to this evaluation is the problem of missing documentation. The SPRC's July 2018 report on Illawarra Wingecarribee Alliance Aboriginal Corporation (IWAAC) negotiations notes that 'some documents were missing' from the tranche supplied by AANSW, and that 'no minutes from the formal Accord negotiations were provided' (Smyth & Katz, 2018a, p. 10).

This evaluation faced similar problems. In particular, while minutes from most pre-accord and Accord I meetings were provided, and minutes from Formal Accord Negotiations for the Social Housing meeting were made available, none of the minutes from meetings leading up to Accord II were provided.

COVID-19 related obstacles

The ongoing effects of the COVID-19 pandemic, particularly the rise in cases in western NSW, which began in June and led to various levels of lock-down across NSW, included several critical outbreaks occurring across the Murdi Paaki region. This prevented researchers from conducting any visits or face-to-face interviews. Indeed, the research team halted all contact with research participants for a period of several months while both government agencies and MPRA focused on the pandemic response. While video conferencing technology was used to continue data collection when this was appropriate, the lack of in-person contact made data collection more difficult. COVID-19-related disruptions to normal working routines also delayed the drafting of this report.

Key findings

This evaluation focused principally on the MRPA Accord II, signed on September 9, 2020; however, many interviewees discussed how Accord II was similar, different, or otherwise related to Accord I, which was signed in 2015. The findings which follow therefore touch on issues related to both Accord I and Accord II.

Finding 1: Substantive but uneven progress has been made towards implementing commitments under Accord II

At the time the fieldwork had been undertaken, some progress had been made toward implementing commitments made under Accord II. For example, MPRA members have been included on tender evaluation panels by one government agency, a commitment under the Accord II Law and Justice Schedule. Progress was underway in expanding a desired government service into the MPRA footprint under that same Schedule. In other areas, and with other agencies, far less progress was evident. The reasons for this appeared to be varied. Some of agencies had given somewhat nebulous undertakings that did not translate clearly to concrete actions. In other cases, it was evident that other agencies were struggling to implement clearly specified commitments that required whole-of-government co-operation.

Nevertheless, it was clear that Accord II was being implemented on-the-ground and delivering changes in how services were delivered, albeit in a piecemeal and uneven manner across agencies and priority areas.

Finding 2: There is a demonstrated increased capacity to negotiate and implement Accord II from both government officials and MPRA

All people interviewed for this evaluation reflected positively on the value of LDM. In the words of one Lead Agency Negotiator, 'this is a vehicle and we've got to keep on with it'. Another Lead Agency Negotiator pointed out that the longevity of the Accords process, which in the Murdi Paaki region has 'survived one election cycle' and is now in its second iteration, is seen as a positive because it has provided time for more people to understand and 'buy into' Accords negotiations.

One Lead Agency Negotiator commented on the potential for Accord-making and the wider LDM process 'to tackle the huge, systemic, real issues' which confront Aboriginal people in regional NSW, although they also acknowledged the importance of engaging with smaller, more immediately achievable needs of communities. They reported that the COVID-19 pandemic had revealed the benefits of having local voices shape local service delivery priorities:

> *Where we've got Community Action Plans that have got strong investment from Community Working Party Chairs, that has meant that they've got all their resources straight out, almost 100% vaccinated already, double dosed, and really super-effective relationships [with Government] (Lead Agency Negotiator).*

Several Lead Agency Negotiators reflected on the evident benefits of prior experience in negotiating the second Accord. Despite MPRA's long-standing track record of engagement with government, it is significant that Accord I was the first of its kind in NSW. Lead Agency Negotiators acknowledged that, because it was pioneering, Accord I was to some extent experimental, or a 'test case'. Coming into negotiations for Accord II, all parties had a better understanding of the potential of the process:

> *I think there's been a maturity that's happened between the first and second [Accord] and there's probably a degree of confidence that the government is actually committed. The process is alive and well (Lead Agency Negotiator).*

Lead Agency Negotiators agreed that negotiations for Accord II were more targeted than had been the case in round one. MPRA delegates were clearer in their objectives, and more willing to call government out for failing to deliver on agreed targets and approaches. One identified a new 'degree of confidence, and an indication of commitment from both sides, a commitment to actually make it work' (Lead Agency Negotiator).

Lead Agency Negotiators commented that the long experience of working with government, and the work previously done by the Assembly to develop a regional plan, meant that MPRA delegates approached negotiations with a clear focus on key issues of concern:

> *A discernible thing for me is the extent to which I saw a more cohesive voice from the assembly, and I understood the expectations a bit better than – or their expectations were a bit more grounded than – some of the [more recently established] Regional Alliances. (Lead Agency Negotiator).*

Having a Chair and a Lead Government Negotiator with prior experience of the Accords-making process contributed greatly to the efficacy of discussions. Lead Agency Negotiators appreciated the work MPRA delegates had done behind the scenes of Accord II negotiations to 'hammer out what is brought to the table', and to set 'clear expectations' of what would be discussed. One MPRA delegate reflected:

> *Everything we do as a community is just that we try and sit at every table we possibly can to let them know [what is going on] …I think at one of the first meetings and we adopted a motto of 'we'. See, most of the time we rely on government to do things for us, rather than us take up the issue, go out there and push for it and that's what we need to do (MPRA delegate).*

Finding 3: The negotiation of Accord II provided MPRA with an opportunity to hold agencies to account over commitments made in Accord I

After observing Accord II negotiations, it became apparent to the research team that negotiations provided MPRA delegates with the opportunity to identify shortcomings of earlier agreements and their implementation. In this way, LDM and the ongoing work of negotiating and renegotiating Accords themselves provide a forum to keep government accountable. MPRA delegates used Accord II negotiations to remind senior public servants that there was an onus on government to ensure awareness of the binding undertakings made through Accords across all departments and at all levels.

Negotiators from both government and MPRA identified the need to keep government accountable. A number of MPRA members were cynical about the NSW Government's commitment to LDM and honouring the agreements made within the Accords process. They saw no change in real terms on the ground:

> *What really is happening as far as these agencies are concerned, they come to this forum only to get endorsement for their programs for the next funding cycle and then we don't see them anymore. We have no accountability on the service delivery (MPRA Accord Negotiator).*

Similarly, one Lead Agency Negotiator observed that, while Accords are technically binding on government, there have been no consequences for not honouring the commitments made under Accord I. They identified this lack of accountability as a structural issue, which they attributed to the failure to develop an implementation methodology.

There was a consensus that outcomes of Accord I were disappointing and fell short of what either MPRA Accord Negotiators or Lead Agency Negotiators had expected, primarily in terms of implementation. In the words of one MPRA Accord Negotiator, 'the Accord is not being honoured in practice'. An example of why this is important became evident in discussions around economic development in the MPRA region. MPRA Accord Negotiators expressed frustration that multi-million-dollar contracts were being awarded to contractors from

outside the region without local community members seeing any benefits in terms of employment. In frustration, one asked:

> How many Accord meetings have we had? We keep having the same conversation. We were going to be informed of future projects that come to our region. And we're sick of training for training's sake. But we're not told [about major infrastructure projects] until the last minute. There's never any consultation with [Traditional Owners or CWPs]. And then you see non-Aboriginal contractors building on a sacred place. So, you need a role to honour what is being discussed in this Accord [in advance]. Not on the day it's being done. We've got lots of people with civil construction certificates who could easily be engaged in construction projects in our town. Someone needs to push harder to make sure we're not still having this conversation in five years' time (MPRA Accord Negotiator).

This frustration was reflected in a commitment agreed under the Accord II Economic Development Schedule for Training Services NSW and the Public Works Advisory to develop a government-wide annual 'pipeline' list of infrastructure projects planned for the region to allow communities to prepare to have a skilled workforce in place. At the time the fieldwork was undertaken, however, no such list had been developed, reportedly due to difficulties faced in extracting this information from relevant government agencies. While a whole-of-government approach to Aboriginal affairs is a clear aim of LDM, the extent to which government agencies are cooperating on the ground was questioned by participants.

Such frustrations were reported by delegates who were increasingly aware of the need to hold government to account:

> It might be the same people, but they're reporting it different, so – and the outcomes will be totally different, that's the sort of ongoing arm wrestle we have with government under this Accord. It is an arm wrestle. It's not as easy as we thought it was. It felt like we just signed up to say, oh we've signed up and now everything's okay, but it's really just business as usual so that's the part we need to highlight in a lot of our stuff (MPRA Accord Negotiator).

Public officials also learnt lessons from Accord I about the type of concrete commitments their agencies can make that might lead to the sorts of changes desired by MPRA:

> With the first Accord as the timeframe went on, the information in reports didn't necessarily change. So, it was agencies coming back with the same information, and there wasn't really that baseline data to be able to measure what had been achieved or what hadn't been achieved and those sorts of things. With this particular Accord, we're obviously being more mature in terms of learning from those lessons and actually looking at putting in actions that are actually going to get outcomes (Lead Agency Negotiator).

Several Lead Agency Negotiators acknowledged that it is MPRA members who are left to deal with the shortcomings of Accord I, because they are accountable to community for an Accord agenda that has seen only modest advances in real terms:

> I'm very conscious that [MRPA delegates] needed to go back to their communities and say that this LDM is actually working, and this is what we've got to show for it because at the moment, I get this feeling on both sides of the table, everyone's feeling that we haven't really got anything to show for this process (Lead Agency Negotiator).

While a number of Lead Agency Negotiators stated that they had learned a lot through the Accords process and reported feeling passionately invested in the concept of LDM, there is no systemised approach for sharing experiences, or for ensuring accountability for poor behaviours, across regions. These echo findings made in the evaluation of other Accords. The evaluation of the IWAAC Accord notes that 'cross cluster issues…required a response from more than one government agency' (Smyth & Katz, 2018, p. 19). Within the MPRA region, the

2018 evaluation of Accord I found that for LDM to improve, 'there needs commitment from all government services to work with the Assembly to ensure Aboriginal community priorities are addressed' (Katz et al., 2018a, p. 34). This report finds that while some Lead Agency Negotiators worked closely with MPRA delegates to address community priorities, there was frustration from MPRA delegates that others did not.

Finding 4: The degree to which Accords foster innovation is questionable

Despite enthusiasm for the concept of LDM, several Lead Agency Negotiators, MPRA delegates, and independent consultants queried how legitimately the Accords negotiation process could be described as being 'co-designed', and the extent to which it fostered innovation.

MPRA delegates expressed frustration at the persistent deficit mindset of government, and saw it as an obstacle to the negotiation of Accords:

> When you go to any meeting and you're sitting across the table from government leaders, there's this welfare cap they've got on…[but] we're not here for welfare. We're here to talk about prosperity and the opportunities and the resources and all that. We want to design our own economic base, which we're in the process of doing now, to generate our own resources, to support our own communities (MPRA Accord Negotiator).

MPRA Accord Negotiators reflected that, rather than focus on joint problem solving, too often bureaucrats used the LDM process to pass complex problems onto community members:

> The first meeting I had with [the former Minister for Aboriginal Affairs], he said what are we going to do about the HIV epidemic? I said, I don't know nothing about it. We never heard anything about that out here, you know? So, I said, that's not our responsibility. That's the Health Department's responsibility. So, that was his first comment and I thought we're not the health people. That's New South Wales Health, that's their responsibility. He had no idea what the meeting was about (MPRA Accord Negotiator).

One Lead Agency Negotiator reflected on the need for government to 'take a team approach' to 'burning issues' within the regions:

> We need to get together to say, these are the things that are the burning issues. What are we all going to do to help each other out in relation to them? I don't think that there's anything wrong with government taking that team approach to it sometimes as well [in] responding, but that's not typical of what happens. If you didn't have the AANSW project officers doing the check-ins with government, doing the check-ins back with community groups and escalating issues and playing the middle person with some of the departments, I think a lot of this stuff would have fallen over (Lead Agency Negotiator).

From the perspective of MPRA delegates, however, approaches to whole-of-government collaboration were inadequate: 'there's more silos than in the wheatfields themselves' as one delegate put it. MPRA delegates felt that approaches to inter-agency coordination continue to sidestep the Accord implementation process. Instead of facilitating decision-making that is driven from the grassroots up through CWPs or MPRA, MPRA delegates reflected that too often a top-down approach to policy coordination is pursued through inter-agency meetings.

Finding 5: Public officials sometimes struggle to navigate overlapping policy frameworks and engagement structures

Competing government policies, and the existence of multiple Aboriginal representative structures within and across jurisdictions, created some resistance to the Accord negotiation process and detracted from the potential for the Accords process to drive substantive change.

Some Lead Agency Negotiators felt torn between the competing priorities of different Aboriginal representative groups which the NSW Government has existing relationships with. One example given was the Department of Education's decades-long partnership with the Aboriginal Education Consultative Group (AECG) which, according to one Lead Agency Negotiator, is 'a principal source of advice and engagement and support'. But not every AECG has supported the LDM process, and this placed some negotiators in a difficult situation. In these instances, rather than holding joint meetings with all relevant Aboriginal representative bodies (like AECGs, CWPs, etc.) as MPRA delegates would prefer, agencies have instead tended to hold separate meetings with different representative bodies.

> *Just get everyone together and listen, that's all they have to do. That's it. And don't come into to town and go down to seven different organisations and get seven different explanations, because seven different explanations are not good! [It's better to] sit around the table and get seven different explanations, [but] cut it down to one, and walk out the door with one formula one that everybody agrees with (MPRA Accord Negotiator).*

This approach to engagement has created conflict within Aboriginal communities. In the view of several MPRA Accord Negotiators, insufficient joint consultation with relevant Aboriginal interests has contributed to exacerbating existing divides within Aboriginal communities.

Some Lead Agency Negotiators were confused by how LDM fits with policies that overlap with LDM, such as the 2020 National Agreement on Closing the Gap. Several reflected that they came to the Accords negotiations with little understanding of the aims and objectives of LDM, and how these articulate with other national and state Indigenous affairs policies and representative structures. This lack of clear direction within the public sector on the connections between intersecting representative structures may require a clear direction to be set from the highest levels of government.

Within this context, many people involved in the negotiation of Accord II expressed concern about policy churn. LDM funding agreements for many Aboriginal Regional Alliances will expire in June 2022 and it was unclear, at the time that fieldwork was conducted, if they will be renewed. Many participants involved in LDM feel that if this happens, the real progress that has been made to ensure that local voices inform spending and service delivery priorities in the region, will be lost. One public sector interviewee remarked:

> *I feel like every time we just feel like we're starting to get runs on the board, there's something else that happens and takes it away, moves our focus somewhere else…*

Finding 6: Government buy-in to the Accord implementation process is uneven between and within agencies, and is perceived to be waning

Although many Lead Agency Negotiators displayed a strong commitment to negotiating effective Accords, both they and MPRA delegates reported that, in large departments and across the wider machinery of government, the Accords and broader objectives of LDM remain poorly understood. Whereas MPRA delegates argue that CWPs have buy-in from their communities, commitment across and within government agencies to Accord implementation has been uneven. MPRA Accord Negotiators reported that many parts of government, or staff working in different parts of a single large department, are often unaware that an Accord has been negotiated, or that LDM even exists as a policy:

> *They look at you with a blank face and say, 'no, don't you know about Local Decision Making and how [we] put it together to fix things up?' They don't know what you're talking about…It's like a whole foreign language to them and then you're sitting there, trying to educate them on something that should be passed down through their own agencies. Or it has been passed down and they've totally disregarded it and thought 'no, we'll just continue to do business as usual, and we'll deliver the services the way that we*

want'. What I see with inter-agencies, you've got funded services that are evaluating themselves (MPRA Accord Negotiator).

This experience was shared by several Lead Agency Negotiators, who reported that some of their agency colleagues were unaware of or uncommitted to implementing the Accord. Lead Agency Negotiators reported that, in the absence of strong, mandatory reporting and accountability structures focusing on LDM within their agencies, the negotiation and implementation of the Accord often relied on the personal commitments of the individual public sector officials.

Furthermore, there is a perception both among government and MPRA delegates that government commitment to LDM is waning and that this is impeding Accord implementation. One Lead Agency Negotiator observed that the Premier's Memorandum, which provides the framework for LDM and the Accords-making process 'was actually written three premiers ago', and that as governments have changed, mechanisms to keep new administrations accountable have become less effective:

The Government's changed twice and the Memorandum's never been updated, including the roles and responsibilities of our government partners. You'll see the Memorandum says that Treasury will do this and Treasury will do that, but when we tabled it with Treasury, they were like, 'oh no, we don't have remit for that' (Lead Agency Negotiator).

MPRA delegates also expressed a view that there was little pressure coming from the top of agencies to deliver on Accord implementation. They perceived a view that, among service delivery agencies, LDM is seen to be the priority of a long-departed Minister of a different agency, superseded by more recent priorities. Nevertheless, some expressed hope that a move to a national agreement would better position AANSW to ensure that their colleagues in government 'play ball'.

Finding 7: Communication and negotiation difficulties remain in the Accord negotiation and implementation process

According to the NSW Government:

Local Decision Making aims to change the relationship between Aboriginal communities and government and give Aboriginal communities' greater decision-making powers in relation to how government programs and services, which impact on them, are conceived, developed and implemented. The Accord is the vehicle for re-setting this relationship and ensuring that decision-making between government and communities occurs collaboratively and in partnership (AANSW, 2017a, p. 6).

The 'Local Decision Making Information Package' published by AANSW states that, 'Accords are the mechanism for re-defining the relationship between the NSW Government and Aboriginal regional alliances' (AANSW, n.d.b).

Despite these policy intentions, Lead Agency Negotiators, MPRA Accord Negotiators, and independent consultants agreed that encouraging new ways of thinking and expectations within Government was difficult.

According to several Lead Agency Negotiators, negotiations might have been improved had individuals with more public sector experience been seconded to assist MPRA with negotiations. One Lead Agency Negotiator reflected that they would have liked to 'change sides of the table' in order to help the Assembly members better navigate government processes. They felt that this would have assisted in securing more concrete outcomes for MPRA. Rather than approaching negotiations with what they saw as a 'wish list of what they wanted to change', one suggested:

I would immediately put an experienced public servant who knows what is going to cut it when you present it to another public servant. Someone that understands, we need to write a briefing note, we need to write this. We need to quantify this. We need to put a budget, a project pricing around this. The other thing that's really important is that we don't de-position the LDM. The people on the LDM. What we don't want to do is put someone in there and say 'look, you guys can't handle this so we've put Bill Smith in there and he'll pull it all together for you' (Lead Agency Negotiators).

MPRA delegates experienced these difficulties differently. From their perspective, MPRA delegates identified a lack of respect Lead Agency Negotiators showed for the Assembly's systems and lines of communication. They argued that government processes should never subvert the proper operation of the Assembly and should trust community to identify problems and solutions to them.

The lack of willingness to recalibrate the relationship between government and the Assembly means that patterns are repeated:

When you have 48 services that are fly in, fly out services to your community and you read the Closing the Gap reports and other reports that are continually reviewed and everything else, there's a huge problem that's going on. The problem is they do not listen to community solutions. They do not resource anything that we put into place. We have no committed funding for a period of time to show that we can make the change. So hence, 35 years later, I'm sitting around the table, at round tables – not this table. This table is where we can at least get them in – but it's around being supported to implement what we see in our communities as the things that will make a change (MPRA Accord Negotiator).

A number of interviewees, both from MPRA and the public sector, perceived the intransigence of Lead Agency Negotiators as a reflection of their lack of commitment to the Accords negotiation process. Others observed that while negotiating Accords was useful to the extent that it allowed senior public servants to understand community priorities, government negotiators were unwilling or unable to drive the change to which communities aspire.

Finding 8: The lack of transparency and flexibility regarding government funding arrangements hampers Accord negotiations

The potential for Accords to better allocate existing funding streams away from underperforming or duplicated service delivery and towards better-performing organisations is frustrated by a lack of transparency. This means that the benefit of local knowledge is too often squandered. MPRA delegates have not been provided with sufficient information to understand how funding is allocated in their region, and this jeopardises the efficacy of the Accord-making process. MPRA delegates expressed a frustration that reductions in service duplication are difficult to achieve without transparency regarding funding and contracting, a first step towards sharing decision-making with respect to procurement.

While LDM promises 'greater flexibility in spending' (NSW Government, 2013, p. 22), such flexibility has not been evident in this review of Accord II. No new specific funds were set aside to deliver initiatives under LDM, and agencies and departments have been expected to draw from their existing budget allocations to fund agreements made through negotiations. This was at times a frustration for several participants and perpetuated an imbalance of power between government, MPRA and other Regional Alliances. Negotiators from both government and MPRA identified this as a serious impediment to achieving the goals of LDM. In the words of one Lead Agency Negotiator:

Funding's a major sticking point. We all know whoever controls the money controls the conversation in most circumstances. There's not an exchange, really, of funding. Because, if we're mature enough to have an Accord agreement with the LDM groups, surely we need to get ourselves to a point where there's

a much deeper layer of transparency about what the state and commonwealth are putting in in terms of the funding into those communities. That's an obstacle that I think can't just continue to be this awkward thing that sits in the background that doesn't have a solution yet, because it could really prohibit our ability to be able to get on with doing some of the real things in the community (Lead Agency Negotiator).

In another Lead Agency Negotiator's view:

It didn't make sense that government didn't quarantine, didn't do some analysis, figure out, well how much are we actually spending in this particular region and then say 'okay, so we're going to quarantine off part of that'. We'll start [the Accords-making] process by saying 'we've got this much on the table for us to prioritise, here are the programs that are being delivered. Here's how we think they're effective'. Even just to trial it before they kicked off – I don't know if they tried this – but before they kicked off the whole project to actually say 'this is how we can be effective, here's the money on the table, here's some self-determination, let's work together in partnership to figure out where this is best directed and then let's make it happen'. It's almost as if they forgot a step and now years later we still haven't gotten over that first hurdle, which is how do we get money out the door? (Lead Agency Negotiator).

The failure to clarify how existing budgets would be applied to cross-sectoral innovations was an area of particular concern. There was confusion over how cross-departmental innovations should be funded. This acted as a constraint on innovation, with public servants not always ready or able to grapple with already-stretched budgets to fund initiatives.

Finding 9: Lead Agency Negotiators lack the necessary decision-making authority at times, particular with regard to expenditure

The LDM Accord Process states:

Agency staff involved in Accord negotiations must have sufficient delegation and decision-making power so they have the authority to respond flexibly and innovatively to the needs and aspirations of the regional alliances (AANSW, 2017a, p. 20).

Despite this requirement, evaluations of two previous Accord negotiation processes found that NSW Government negotiators lacked the authority necessary to agree to proposals made by Regional Alliances. The evaluation of MPRA Accord I states that an 'opportunity for improvement' is to 'ensure that NSW Government representatives have adequate authority' (CIRCA, 2015, p. v) and that, 'for future Accord negotiations, steps should be taken early and resources dedicated to ensure representatives can engage fully in the negotiations right from the start'. Similarly, the Accord Negotiation Evaluation of the Three Rivers Regional Assembly negotiations found that, 'despite learning that government department negotiators need to have delegated authority to make decisions this was not put into practice, and some government negotiators lacked willingness or authority to conduct negotiations' (Katz et al., 2018b, p. 5). It identified 'assigning senior decision makers to the Accord negotiation process' as a 'necessary adjustment' (Katz et al., 2018b, p. 7). It must be noted, however, that the Accord Negotiation Evaluation of the IWAAC negotiations found:

The first lesson for the Department of Premier & Cabinet was the critical importance of involving senior government staff who had the authority to make decisions. This was achieved and had a positive impact on the negotiations (Smyth & Katz, 2018, p. 1).

While this situation may have improved somewhat since Accord I, MPRA Accord Negotiators felt that in some instances when implementing Accord II, they were still dealing with a 'middleman' who would not make decisions and who faced few consequences if they failed to take back the 'proper information' to their superiors. Negotiators involved in Accord II also reflected on the inadequacy of negotiators' decision-making authority.

Although they held senior positions within government, Lead Agency Negotiators described being bound by existing budgetary allocations. While having decision-making power in some domains, they were unable to sign off on funding, particularly capital works, that had not been factored into departmental budgets.

In one case, MPRA delegates felt that the negotiator from one agency was from an inappropriate section of the agency. There was a degree of frustration among MPRA Accord Negotiators that they had the wrong people sitting around the negotiation table with them. As one MPRA Accord Negotiators memorably put it, 'we want the doctor, not the disease'.

This problem was exacerbated by the frequent turnover of Lead Agency Negotiators. One remarked:

> *Within government, staff turnover is huge. I guarantee, if you looked at the attendance list for the Murdi Paaki [negotiations] in particularly, the Murdi Paaki people are always the same, but the government names will be different each and every time (Lead Agency Negotiator).*

This made it difficult to ensure that clarity around the roles and responsibilities of government was maintained over time.

Finding 10: Timely access to data is uneven and questions about its relevance and accuracy remain

Sharing of data is a key element of the Accord negotiation and implementation process. MPRA delegates noted that, from their perspective, access to data was crucial for two reasons. First, it enables them to make their case for service delivery priorities on an equal footing when negotiating with Lead Agency Negotiators. Second, MPRA delegates expressed an awareness that data relating to service use and service need are crucial when making funding submissions to government. Delegates would like to see those data more broadly available to the Aboriginal community-controlled sector.

MPRA delegates and government advisors reflected that there is no mechanism that would ensure government departments and agencies provide data in a timely manner. This meant that MPRA did not always have access to all information relevant to issues being discussed. Through both Accords negotiations and into the implementation phase of Accord I, a lack of access to data, provided in a usable form, frustrated desired outcomes and led to the misallocation of resources. This eroded goodwill. One representative from AANSW recounted that:

> *When I first came into LDM, government used to hand over these huge paper packs to the Alliances filled with data and it would be the dollars spent, services, programs. Ninety per cent of the time, it had the wrong town, because of the way they could get the data out.*

The extent to which data to inform Accord II was provided in a timely manner and an appropriate format varied greatly between departments. Some Lead Agency Negotiators worked closely with delegates to design 'dashboards' of data to best align with MPRA aspirations. Others were less cooperative. One MPRA delegate gave the example of seeking accurate data on school attendance:

> *I sat on the school reference group once and it was like asking the principal to chop their heads off to bring the data out about how much funding was going into the school and how many of our kids were in the school. We just pressed on until we made them bring the information to the table and found that they were still collecting funding for kids that have moved…and still counting them as being in their school, so that they could keep their teachers (MPRA Accord Negotiator).*

Even in cases where data are forthcoming, MPRA delegates expressed some scepticism regarding the quality of government and administrative data. For example, estimates of social housing need were perceived to be

inaccurately low when based on existing tenancy records, because tenants may not wish to disclose the true number of dwelling occupants, for fear of breaking tenancy agreements. Since Accord I, MPRA delegates report that they have been proactively collecting their own data to better inform investment in the region:

> They've presented to us a lot of the deficit side, being Court appearances, incarceration, health, all that deficit data that they've been collecting. We done our own research around housing, the housing model. We're continually doing that now, more research that we own. We use those documents to lever further funding and progress (MPRA Accord Negotiator).

This new approach ensures that data reflects reality and the lived experience of end-users of government services:

> Data is the new gold. Without data, we can't get funding…I have real problems about the authenticity of the data that is collected through the agencies. I mean an example is that we've got 48 services in [one community] and they're actually using one person maybe five or six times to tick off their data to keep their funding, you know? (MPRA Accord Negotiator).

One Lead Agency Negotiator pointed out that 'data's only one part of the conversation' and that building authentic relationships with bureaucrats is another important, and pragmatic, way of driving change in the regions. This self-determined approach to data creation and access may, in many cases, be a more promising route to informing Accord negotiation and implementation than seeking access to government administrative data that was created for another purpose.

Finding 11: Accord II provided an opportunity for negotiating parties to further develop the personal and institutional relationships that are at the centre of LDM

Both government and MPRA delegates showed a commitment to working together more closely on the negotiation and implementation of Accord II priorities than was the case for Accord I. Both MPRA delegates and the Lead Agency Negotiator for the Department of Communities and Justice reflected positively on achievements such as including a MPRA delegate in evaluations of tender responses from out-of-home care providers. That delegate also reflected positively on the experience and reflected that he 'wanted to see more' such collaborations.

Negotiators from both MPRA and government stated that real benefit of Accord II could be seen in the relationships built, understandings gained, and good-will established between the negotiating parties. The genuine engagement of senior government figures, who listened to community perspectives and participated in the process of re-imagining community–government relations, was seen as a particularly significant.

All parties reflected on the importance of building relationships between public servants and MPRA and CWP members:

> You can't say no to the faces, and so that's one of things that we took on early in LDM with, like, the executive sponsors, was making sure the Alliances got actually in the face of the senior bureaucrats, not just their lead negotiators. Because once their faces are in front of them, it's so much harder for government to say no or to argue against (Lead Agency Negotiator).

As one Lead Agency Negotiator observed, the content of the Accords is important, but so are the ancillary benefits that flow from them:

> Getting the Accords to where they are, signed, up and running, negotiated, building those relationships and bringing people together is definitely improving the way government works within government – a flow-on effect from that is the breakdown of silos and better collaboration (Lead Agency Negotiator).

All parties identified the opportunity to form relationships as one of the greatest benefits of the Accord negotiation process, and the most effective mechanism to drive change in the regions.

Reflecting an awareness of the importance of self-determination, all parties agreed that government agencies and departments have strong and clear authority to engage in the Accords negotiations. The process brings senior government figures to the table to engage with the Regional Alliances. This was universally acknowledged as a significant and productive policy approach. Lead Agency Negotiators reflected on how much they had learned through the Accords negotiation process. MPRA delegates reflected on how much they appreciated the opportunity to engage with senior public servants with real decision-making power. This key element of the Accord negotiation process worked well in the MPRA Accord II negotiation.

Discussion

MPRA is a well-established Aboriginal Regional Alliance in NSW, pre-dating the *OCHRE* policy. MPRA has decades of experience collaborating with Commonwealth and state government agencies. The LDM Accords I and II are only the most recent partnership initiative involving MPRA and the NSW Government. MPRA's legitimacy and financial viability do not rely on the LDM program, although MPRA has been part of the LDM program since its inception in 2013 and became the first Regional Alliance to sign an Accord with the NSW Government in 2015. This cumulative experience and financial independence put it at a relative advantage to other Regional Alliances.

In 2018 and within the framework of LDM, the Murdi Paaki Social Housing Agreement was signed. Under the agreement, the Regional Aboriginal Housing Leadership Assembly (RAHLA) was established, and given $15 million in funding to address housing issues in the region.[1] On September 9, 2020, a second overarching Accord (Accord II) was signed between the NSW Government and MPRA.[2]

After Accord I was signed, MPRA established Murdi Paaki Services Limited (MPSL) as its operational arm, and gave it responsibility for undertaking strategic activities. Accord II stipulates that in implementing the agreement, Aboriginal owned and operated service organisations and enterprises in the MPRA region will be given 'primacy' (NSW Government & MPRA 2015, p. 2).

The MPRA Accord Negotiators, Lead Agency Negotiators, and the Independent Evaluator, who were interviewed for the Accord Negotiation Evaluation of the MPRA Accord II negotiation process, reflected positively on the value of LDM. The longevity of the Accords process is seen as a positive because it has provided time for more people to understand and 'buy into' Accords negotiations. As one interviewee put it, 'the good will had gone up a bit and there was less cynicism in the second round.' Shared decision-making requires mutual commitment, capability, and trust, and these aspects of the relationships between MPRA and NSW Government agencies have taken time to build.

Accord II negotiations provided MPRA Accord Negotiators with the opportunity to identify shortcomings of earlier agreements and their implementation, and improve on the outcomes of Accord I. There was a consensus that outcomes of Accord I were disappointing and fell short of what either MPRA or government negotiators had expected. In the words of one MPRA delegate, 'the Accord is not being honoured in practice'. An example of why this is important became evident in discussions around economic development in the MPRA region. MPRA delegates expressed frustration that multi-million dollar contracts were being awarded to contractors from outside the region without local community members seeing any benefits in terms of employment. In this way, LDM and the ongoing work of negotiating and renegotiating Accords themselves provided a forum to keep government accountable. MPRA delegates used Accord II negotiations to remind senior public servants that there was an onus on government to ensure awareness of the undertakings made through Accords, across all departments and at all levels.

This was, at the time of fieldwork, flowing through into concrete progress being made towards implementing commitments made under Accord II. While progress was uneven across agencies, real changes were being negotiated and implemented that will change service delivery outcomes.

Both Lead Agency Negotiators and MPRA Accord Negotiators showed a commitment to working together more closely on the negotiation and implementation of Accord II priorities than was the case for Accord I. Both MPRA delegates and the Lead Agency Negotiator for the Department of Communities and Justice reflected positively on achievements such as including a MPRA delegate in evaluations of tender responses from out-of-home care

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[1] https://www.aboriginalaffairs.nsw.gov.au/working-differently/local-decision-making/accord-negotiations/signed-accords/
[2] https://www.aboriginalaffairs.nsw.gov.au/working-differently/local-decision-making/accord-negotiations/signed-accords/

providers. That delegate also reflected positively on the experience and reflected that he 'wanted to see more' such collaborations.

Negotiators from both MPRA and the NSW Government stated that real benefit of Accord II could be seen in the relationships built, understandings gained, and good-will established between the negotiating parties. The genuine engagement of senior government figures, who listened to community perspectives and participated in the process of re-imagining community–government relations, was seen as a particularly significant.

Conclusion

The negotiation of the second MPRA Accord demonstrates both the strengths and weaknesses of LDM and the Accords-making process. This Accord Negotiation Evaluation found that the MPRA Accord II negotiation process was an effective mechanism for increasing the efficacy of agreements, and provided an opportunity to build on the lessons learned during negotiations for the MPRA Accord I. At the same time, numerous ongoing structural issues affected the negotiation process, including: the lack of resourcing of Accord initiatives; deficient accountability structures within government agencies; difficulties in obtaining and providing readily accessible, relevant data; and the high turnover of Lead Agency Negotiators. Underlying all these issues was a power imbalance which remained between Lead Agency Negotiators and MPRA delegates. Despite these limitations of the process, all parties stated that the Accord II negotiations process was more effective in achieving concrete outcomes than Accord I, and served as an important forum for holding government accountable.

All parties to Accord II reported that they had a greater understanding of how LDM works, and more faith in the process. However, many expressed frustrations that driving real change requires a commitment to and understanding of the LDM reform agenda across government, which does not yet exist. Lead Agency Negotiators described MPRA delegates as more focused and confident in Accords II negotiations than they had been in Accord I negotiations. This included being more willing than they had previously been to press for particular actions or outcomes; clearer in understanding the information they needed; more cohesive as a group, and more effective as negotiators.

In 2004, inaugural Chair of MPRA, Sam Jeffries, wrote:

> *The lessons of the past remind us that there is more than good governance to shaping our future. We must not lose our self-determination, we must re-discover our commitment, and be unwavering in our efforts to build a better future. We can't sit back and wait for government to do something for us (Jeffries & Menham, 2004, p. 13).*

All representatives of government interviewed for this evaluation reflected on the persistent commitment and dedicated efforts of MPRA delegates in negotiating Accords under the LDM reform agenda. While some called for careful succession planning, all recognised the power of working with people strongly connected to the communities they represent over a long period of time. All reported that they saw great value in this work.

While LDM and the Accords-making process remains imperfect, this Accord Negotiation Evaluation demonstrates the benefit of working under a sustained policy framework. In approaching a second round of Accords negotiations, Lead Agency Negotiators who had remained engaged throughout the process spoke of the personal and professional lessons they had taken away from it, and their increased commitment to supporting Assembly delegates to achieve their desired ends. All parties expressed a desire to continue improving the Accord-making process into the future to realise the full potential of shared decision-making in the MPRA region.

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