
N E X T

EDITION FIVE
BUSINESS. PURPOSE. FUTURE.

DECEMBER 2022

BEING RESPONSIBLE
AND CREATING VALUE

CENTRING FIRST NATIONS
VOICES & EXPERIENCES

RESPONDING TO
SEXUAL HARASSMENT

PLACE-BASED PARTNERSHIPS

CYBER INCIDENT RESPONSE

FOREWORD

DAN CREASEY, DIRECTOR OF RESPONSIBLE BUSINESS



“...THE CONNECTION BETWEEN SOCIAL PROGRESS AND BUSINESS SUCCESS IS INCREASINGLY CLEAR”

– Harvard Business Review

Top ESG priority in KWM’s 2022 Directions survey?

55.4%

said creating & maintaining a diverse & inclusive workforce.



“IN THE PAST, COMPANIES RARELY PERCEIVED THEMSELVES AS AGENTS OF SOCIAL CHANGE. YET THE CONNECTION BETWEEN SOCIAL PROGRESS AND BUSINESS SUCCESS IS INCREASINGLY CLEAR”

– Harvard Business Review

According to the 2021 Deloitte Millennial Survey, “Millennials and Gen Zs believe the world is at a tipping point on environmental issues, inequality, and racism. They are holding themselves and institutions accountable in order to bring about a more sustainable and equitable world.” The report adds: “Continuing a steady decline over the last five years, less than half of millennials (47%) and Gen Zs (48%) think business is having a positive impact on society.”

It is little wonder that purpose and profit are pushing more closely together than ever before.

In our last edition, I made the case that being a responsible business is a whole of business task and requires a joined-up approach to be truly effective. In this edition, we build on this theme of joining-up and enhancing cross-sector collaboration, sometimes referred to as *shared value*, to address the most pressing and complex challenges of our time. As HBR said, “... business interests and societal interests can be one and the same”. I couldn’t agree more.

Shared value is all about creating profit and purpose, not profit *over* purpose.

Against a backdrop of increasing natural disasters, a global pandemic and global social movements, it’s not just Millennials and Gen Zs demanding that companies and organisations significantly step up their efforts to create purpose. All stakeholders have their hands up. But these challenges are wicked, complex and multi-layered. No single actor can achieve meaningful change on its own.

Collaboration is essential. Governments and businesses must come to the table with non-governmental organisations and community representatives to share expertise and ideas, and then drive joint programs. It’s a movement that has come to be known as “collective impact” – the fusing together of different sectors to create better outcomes for all – better societal impact and better financial gain.

In this edition, we’ve brought together a range of articles which I think demonstrate shared value in action. One of the key themes which emerges is *governance*, and the critical role it plays in delivering the type of financial and societal success so many of us are looking towards.

I hope you enjoy this edition and as always, I welcome the opportunity to discuss all things *shared value* with you over coffee or lunch.





INTRODUCTION

ANGELA WEBER & RUTH ROSEDALE, EMPLOYEE RELATIONS AND SAFETY PARTNERS

Welcome to the 5th instalment of NEXT from KWM, and the continued evolution of our mission to deliver you an over-the-horizon look on what's coming NEXT for business.

In this edition, we're excited to bring you something a bit familiar and a bit different.

On the following pages insightful perspectives on private capital's development opportunities, Boardroom views on cyber and a thoughtful explanation on what Respect@Work really means – not just in striving for gender equality but the broader quest for stronger, more diverse and equitable organisations.

Excitingly, we're also diving headlong into some inspiring stories from the frontlines of the social challenge, with two stories digging into the incredibly important and uplifting work our community impact teams do – and what it means for the people they help.

This social dimension is arguably this edition's unifying thread.

In our previous instalment, we reflected on the now-outdated notion of 'corporate social responsibility' – had giving way to today's environmental, social and governance framework.

What does it say that 'social' is the one word to survive that evolution?

If there is a common factor, surely it is the idea that business and organisations public and private exists to serve human needs.

It is a theme you'll find in each of the five pieces across the following pages:

- **Private Capital** as a change agent – doing well and doing good in developing nations
- The **power of listening** to people in need when designing programs to lift them up
- The promise of truly **transformative workplace change**, with the passage of Respect@Work legislation
- The potential '**place-based partnerships**' offer indigenous communities grappling with inequality
- **Cyber incident response** – putting customers first

We trust you find these articles interesting and insightful to guide you and your organisation on this journey.



ABOUT THE AUTHORS

FROM THE EDITORS



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RACHAEL FALK CEO, Cyber Security Cooperative Research Centre





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BRIDGING THE GAP

BEING RESPONSIBLE AND
CREATING VALUE

SEEKING RETURNS ON YOUR SOCIAL GOOD: A CASE STUDY OF CO-INVESTING WITH IMPACT

Proponents of environmental, social and governance (ESG) practices have at times been accused of prioritising values over value, and concerns around the financial basis for ESG investment can become an obstacle for even the best-intentioned of businesses. Accordingly, the ability to build a business case for ESG projects will go a long way to safeguarding the durability of the ESG movement. Importantly, favourable financial returns may also be available to businesses which scrutinise the commercial viability of ESG pursuits.



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Balancing priorities

Responsible investment is one method by which a business can pursue financial returns while participating in ESG activities. This article explores the possibility of balancing purpose and profit, by examining one such project - a partnership between Singapore-listed Darco Water Technologies (**Darco**) and InfraCo Asia Development (**IAD**), a commercially managed infrastructure impact investor, and their co-investment in the development of water supply infrastructure in semi-rural Vietnam (**Water Supply Project**). We'll use it to help explain what impact investing is (and isn't)!

The Water Supply Project

The Water Supply Project involved the co-development of water treatment projects that aimed to assist Vietnam meet its water supply and sanitation-related development goals, including universal access to safe drinking water by 2030. The water distribution systems developed as part of the project aim to provide 24/7 piped, treated water to approximately 500,000 individuals in Ben Tre province and Hai Phong municipality, where the populations rely heavily on the collection of rainwater to meet their daily needs. In addition to drinking water, the water is also deployed as clean industrial grade water, a much-needed resource for the push to attract foreign investment into manufacturing facilities and the overall development of the Vietnamese economy. For Darco, an engineering and construction company specialising in water treatment, the Water Supply Project represented a move across the value chain that provided the company with exposure to offshore markets, while creating an avenue for recurring revenue.

- **Responsible investment – a spectrum of activity**

Responsible investment can take many forms.

The Responsible Investment Association of Australasia (RIAA) describes responsible investment as [a spectrum of investment activity, which exists between traditional profit-driven investment and philanthropy](#).

- **Avoiding harms**

On one end of the spectrum, responsible investing can be simply the integration of ESG factors into the decision-making matrix underlying an investment, negative screening of certain industry sectors or companies to avoid conflicts of values, or norms-based screening which exclude investments that fail to meet minimum standards and include those that satisfy defined criteria. These kinds of investments are focussed, to varying degrees, on avoiding harms.

- **Contributing to solutions**

Investors can go beyond avoidance of harm and seek to make positive contributions to society or the environment. This type of investment emphasises taking active steps, for example by seeking and investing in companies with demonstrated records of high levels of ESG performance or taking an active role in projects which are aimed at solving specific social or environmental problems, also known as impact investing. In impact investing, the social or environmental outcomes are a driving force for investment decisions from conception to execution. It shifts the focus of responsible investment from an 'avoidance of harm' approach to targeted initiatives where the private sector takes an active role in shaping communities and mobilising their financial influence to achieve defined goals. IAD's Water Supply Project and its broader portfolio of investments fall within this latter category.

Co-investing for successful outcomes

Partnering with an established impact investor such as IAD is an opportunity to bring about returns on impact, as well as returns on investment. For impact investors, the largely untapped pool of capital on corporate balance sheets is an opportunity to bridge a gap that cannot be met by government or development bank funding. [Working with Darco, IAD was able to provide funds, leadership and experience in deal structuring, as well as supporting Darco in its feasibility studies.](#)

Accessing high-growth emerging markets

By financing socially responsible and commercially viable early-stage infrastructure development activities, IAD is able to contribute to economic growth, social development and poverty reduction in South and South East Asia. Under the commercial guidance of IAD, funding from the UK's Foreign, Commonwealth and Development Office; the Ministry of Foreign Affairs of the Netherlands; the Swiss State Secretariat for Economic Affairs and the Australian Department of Foreign Affairs and Trade is applied to mitigate early-stage project development risks and create a "bankable" infrastructure project attractive to private sector investors. In other words, public funding is applied to de-risk projects where the private sector is unwilling or unable to access such investment opportunities. By financing early-stage infrastructure development, IAD is able to mobilise private sector capital to invest in sustainable infrastructure projects in emerging economies.

Distinguishing impact investing from philanthropy

It is important to keep in mind that impact investment is distinct from philanthropic pursuits where financial return is not a factor. While positive social and/or environmental impact is at the heart of impact investment projects, it exists here alongside commercial viability. For the project to proceed and succeed, both aims must work in tandem. Commercial viability sustains the long-term prospects of the project, which allows investors to maximise their investment and enable the social benefits to continue well into the future.

Finding the right project

Impact investment projects, such as those undertaken by IAD, are often bespoke, leveraging the expertise of the investor to maximise impact and return on investment. Investors in this area work to strategically identify and develop projects where private capital has the capacity to not only contribute funds but lend their specific expertise, whether this be geographical or industry experience to enhance the success of the project and promote tangible benefits for the community.

For many, the opportunity to participate in impact investing is yet to present itself. Research from RIAA indicates that [in Australia, impact investing is predominately the domain of numerous smaller investors along with the dedicated impact funds of a few major international investment managers](#). Despite this, current projects only scratch the surface of the ways in which investors might participate in impact investing. As the overall demand for responsible investing rises, investors looking to engage with impact investing should reflect on their unique strengths and look for opportunities which match these.



CENTRING FIRST NATIONS VOICES & EXPERIENCES

LISTEN TO LIFT UP

Programs co-designed
with the First Nations
people they support
are more effective.



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CHLOE CASTRO

WAIWA MUDENA ALUMNI,
CURRENT KWM PARALEGAL:

I was introduced to KWM through chance in 2019 during the first year of my degree at UTS. I was invited to attend a co-design workshop with other First Nations law students from UTS to provide feedback for a work placement program specifically for First Nations law students at KWM. I initially had no intention of attending this workshop as I was incredibly intimidated by the corporate environment and did not think that I would be able to provide any impactful feedback for a program of this nature. However, after multiple discussions with students and staff at the university about the future impact that a program like this could have for other students, I decided to attend.

Not long after this session, I was notified that KWM had developed this program and was encouraged to apply. I did not think that I deserved a place on the program due to my complicated relationship with my identity, which led me to miss the original application deadline. I was later informed that the deadline had been extended and took that as a sign to give it a go. As it turns out, applying was one of the best choices I could've made. Over the summer I'll be trading my paralegal role for a place in KWM's summer clerkship cohort, and excited for what lies ahead!

Giving underrepresented talent a say in shaping the mechanisms we design to lift them up has helped to make those initiatives more effective. In this article, we share:

- What this looks like designing, delivering, and measuring programs across KWM Community Impact's social mobility platform
- Community Impact's business case, successes, and challenges.

What is social mobility?

Historically, there's been an imbalance in the socio-economic diversity within the legal profession and it is our mission to address that. Despite being heralded as the land of the fair go, in Australia the reality is that you are much more likely to stay on the same band and career cycle as your parents rather than advance. Social mobility is about an individual's ability to break down intergenerational barriers in order to enjoy more fruitful, more advanced working lives than their parents or their grandparents before them. It also refers to a person's ability to access resources and improve their standard of living in comparison to the generations that came before them. It's about people's ability to progress beyond their class bands within communities. KWM's social mobility platform seeks to contribute towards increased social mobility across the legal sector.

A First Nations focus

At KWM, we recognise that for too long Aboriginal and Torres Strait Islander people have been excluded from Australian legal systems. This has contributed to the harm that legal systems have caused and is a factor in the underrepresentation of First Nations people across the legal profession. KWM's social impact practice, Community Impact, is focussed on transformational partnerships and systems change to create sustained generational progress. Key to that systems change is having young First Nations people meaningfully engaging and contributing to structural reform and the increased representation of First Nations young people in the legal sector.

Our response



Elevating Young People & Their Voices is a key pillar in Standing Strong & Tall Together, Community Impact's 5 year blueprint of impact. Under this pillar, we work to create the following outcomes:

- We contribute to young people being more aware of & having improved access to, educational & employment pathways
- Young people develop valuable networks within the legal sector
- Young people have increased opportunities to meaningfully engage & contribute to structural reform
- We contribute to increased representation of First Nations young people in the legal sector.

You can read more about the blueprint [here](#).



Our approach aims to provide earlier and more frequent opportunities for younger people to connect with the firm, our partners and the wider profession than the traditional clerkship model.

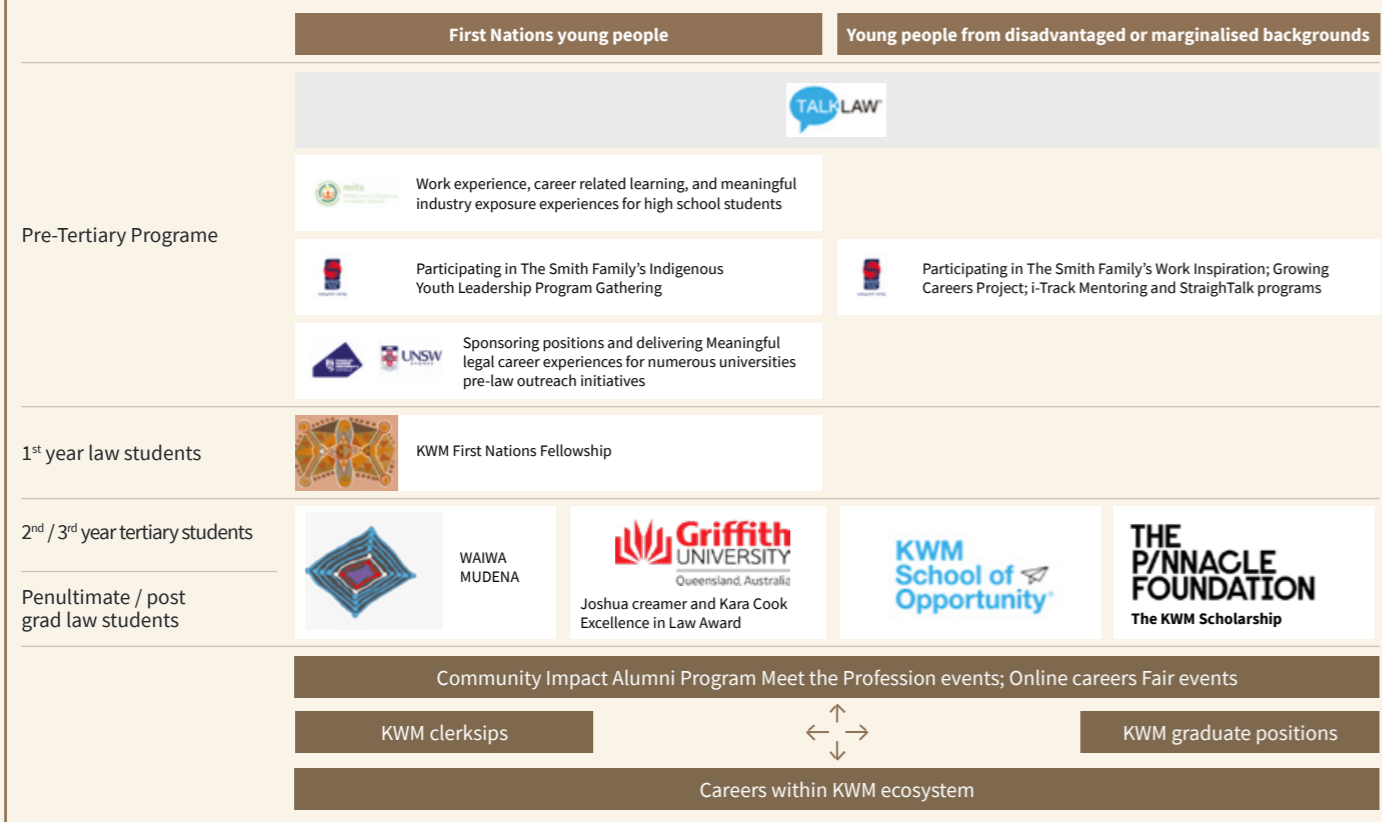
To achieve this, we sat down and listened to young people tell us what was important to them in career related program that they would want to participate in. Their feedback built the framework for our programs and how we recruit for them. For example, with Waiwa Mudena, First Nations law students told us that asking for academic transcripts can create an impression that a certain grade point average is required to be eligible for the program. Students explained that this may cause some students to opt out of the process. So, we don't ask for academic transcripts across any of our social mobility programs. Instead, we ask candidates to tell us about themselves, their career goals and how they see our social mobility programs assisting them to achieve those ambitions.

The business case

Attracting and retaining skilled labour is business leaders' top concern. Creating and maintaining a diverse and inclusive workforce is their highest ranking ESG priority ([Directions 2022](#)). We know that young people from underrepresented backgrounds often lack the networks and personal support to assist them to break into an increasingly competitive job market. Co-designing our social mobility programs together with the people we want to lift is enabling us to find and nurture diverse talent.

KWM's social mobility ethos is a key part of our firm's employee value proposition. It is meaningful for our partners and staff to give back and support the development of the next generation of aspiring legal practitioners.

SOCIAL MOBILITY TOUCHPOINTS OVER A YOUNG PERSON'S EDUCATION AND CAREER TRAJECTORY



CHLOE:

During my time on the 2019 pilot, I was introduced to commercial law through the Environment Planning and Native Title team, had the opportunity to attend networking sessions with in-house legal counsel at Tabcorp and AGL and got to develop relationships with other First Nations law students at my university that I had not previously met.

In December 2020, I was notified through the Waiwa Mudena Alumni Network that two Paralegal positions were available in the KWM Community Impact team. I applied and was subsequently successful for a role working directly with Megan Barnett-Smith to assist with the administration of KWM's social mobility programs; KWM School of Opportunity, Waiwa Mudena and the First Nations Fellowship.

Thanks to KWM network of community partners, I was introduced to Justice Reinvestment. I was able to utilise one of my subjects at university this semester to intern with Just Reinvest NSW, an opportunity that I would never have been aware of without the networks I have made at KWM. I also took on the challenge of applying for Clerkships this year and was fortunate enough to accept an offer from KWM.



Is it working?

Social mobility is ultimately measured across generations. However, we closely watch the number of alumni who transition into secure employment at the conclusion of their university degrees. The impact metric for Waiwa Mudena is the number of alumni who transition into careers in the legal sector. We stay in touch with all young people who have been through our social mobility programs, providing ongoing support and continually feeding career opportunities that arise within our ecosystem, into our alumni network.

23% of KWM School of Opportunity® alumni have gone on to be employed at the firm across both Shared Services & Support and legal teams. 43% of Waiwa Mudena alumni have been subsequently engaged by KWM, including in 4 paralegal and 9 clerkship roles. Aside from these direct recruitments, KWM has facilitated multiple other job opportunities with strategic clients and community partners.

A major focus going forward is ensuring alignment between social mobility programs and whole of business career development opportunities to maximise opportunities for short term internships to translate into longer-term career opportunities. Short-term placements, that don't translate to longer-term career outcomes risks looking tokenistic. So we're focused on that metric, recognising there's more work to be done ensuring it is the focus of a really long-term strategy.

What's next

Recognising there's plenty more to be done, we're committed to continuous improvement, especially via feedback from our program participants.

CHLOE:

"Over the past four years, I have witnessed Waiwa Mudena expand from a Sydney-based pilot with 4 cadets to a national program that supports 15 cadets annually and I am incredibly excited to see where this program goes next".

"As I transition from KWM paralegal to clerk, I recognise the positive impact that Waiwa Mudena has had on my personal and professional life. The relationships I have developed with the students on the First Nations Fellowship and Waiwa Mudena combined with the continuing support and guidance from the Community Impact team have helped me to embrace my identity and encourage me to pursue my legal career.

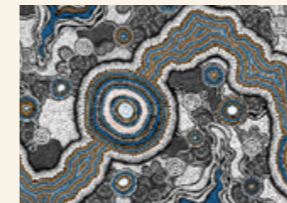
My journey at KWM has cemented my desire to give back and provide others with the same opportunities that I have benefitted from. It has also encouraged me to reflect on my privilege and recognise the importance of social mobility programs to promote equal opportunities for all individuals, not just those who are conveniently located within Australia's major cities.

In 2023, KWM will look to create more access to employment opportunities for young people from underrepresented backgrounds. We're proud to be contributing to developing the future pipeline of talent to evolve our people experience and grow our business for the future. Plans include:

- Expanding our social mobility platform internationally
- Piloting an innovative entry level employment initiative for young people in Western Sydney/South Western Sydney
- Launching our Pre-Tertiary Program
- Staying in touch with our 100+ alumni who have completed our programs.

If you would like to discuss how your organisation might collaborate with KWM on any of the above initiatives, reach out to Dan.Creasey@kwm.com.au.

A SNAPSHOT OF SOME OF OUR SOCIAL MOBILITY PROGRAMS:



**KWM
School of
Opportunity®**

KWM School of Opportunity® is a 6 month paid training and employment pathways program, designed and delivered in collaboration with The Smith Family, ANZ and Transurban. It aims to assist young people from disadvantaged backgrounds develop job-readiness and industry-specific skills via: a 30 day paid work placement in our Shared Services & Support teams; skills based workshops designed and delivered by KWM, ANZ and Transurban; mentoring, buddying and networking opportunities. The program takes up to 10 students each year.



**First Nations
Fellowship**

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KWM First Nations Fellowship is our holistic networking, mentoring and financial support Fellowship for First Nations first year law students. The First Nations Fellowship aims to contribute towards increased representation of First Nations people across the legal profession. Fellows connect with a KWM mentor and our esteemed Fellowship Ambassadors and receive a contribution towards the cost of their degree.



**Waiwa
Mudena**

Waiwa Mudena connects aspiring First Nations practitioners with examples of numerous career pathways available in law. Co-designed with and for First Nations law students, this uniquely flexible, immersive 30 day paid work placement and professional skill development program takes a long-term, holistic and flexible approach to increasing First Nations representation in the legal sector. Cadets spend time in both KWM legal teams and on secondment with partnering Aboriginal Legal Services, Community Legal Centres, government related justice agencies, government departments, in house legal teams and barristers. The program takes up to 15 cadets each year.

CDU Pre-Law Enabling Program

KWM sponsors a student to participate in Charles Darwin University's First Nations Pre-Law enabling program. The program aims to remove barriers preventing First Nations peoples considering the study of law by providing foundational skills to be successful in law school.

Joshua Creamer and Kara Cook Excellence in Law Award

KWM funds this scholarship for penultimate and final year female Aboriginal or Torres Strait Islander students studying law at Griffith University and aims to increase the number of female, Aboriginal or Torres Strait Islander barristers practicing at the Queensland Bar.

The KWM Scholarship

The KWM Scholarship and our multi-year partnership with The Pinnacle Foundation is a joint initiative of KWM Community Impact and LINK, KWM's LGBTQ+ Inclusion Network. The 3 year Scholarship supports a marginalised or disadvantaged LGBTQ+ young adult to study law in Australia.

[Click here for more information about these programs](#)



RESPECT@WORK: WHY RESPONDING TO SEXUAL HARASSMENT IS EVERYONE'S BUSINESS



Workplace culture is undergoing a major change, driven by movements such as #MeToo, #TimesUp and #LetHerSpeak. These empowered calls to equality have become part of everyday language. In 2017, *TIME* Magazine named as its Person of the Year the 'Silence Breakers', representing the people who came forward and spoke up about sexual harassment and assault throughout the #MeToo movement. Around the world, people are speaking up about their experiences of sexual assault and harassment. Importantly, they have compelled governments, businesses and leaders to do more to create safe and fair workplaces.

This is certainly the case in Australia. A series of inquiries, increased media coverage and high-profile incidents have shone the spotlight on the issue and prompted renewed calls for sexual harassment in the workplace to be eradicated. Now faced with new laws which will significantly change the landscape, business has an opportunity to view sexual harassment through a different lens.

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SNAPSHOT OF RESPECT@WORK

Against this backdrop of heightened awareness, a national inquiry commenced in 2018 to assess the impact of sexual harassment and its prevalence in Australian workplaces. This culminated in the landmark Respect@Work report, which was published in March 2020.

The report made 55 recommendations which traversed legal, regulatory, social and economic issues. One of the most significant is the introduction of a positive duty on employers to prevent workplace sexual harassment, discrimination and victimisation. Meeting this new benchmark will require a mindset reset from businesses and business leaders.

The federal government has taken steps to implement this recommendation, with the Respect@Work bill containing the positive duty (among other reforms) recently passing Parliament. If you're interested in understanding more about these changes, you can access our [alert here](#).

Key statistics¹

41% **26%**
of women and of men
have experienced sexual harassment
in the workplace in the last 5 years

About

1 in 5 people
have been sexually harassed
at work in the last 12 months

37% of people surveyed as part of the AHRC's fifth national survey on workplace sexual harassment thought their organisation should be doing more to prevent and address sexual harassment

¹ Source of data: Australian Human Rights Commission 'Time for respect: Fifth National Survey on Workplace Sexual Harassment (November 2022)'.
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AN OPPORTUNITY TO ADDRESS A PREVALENT AND PERVASIVE PROBLEM

Instances of sexual harassment and sexual assault in the workplace have damaging flow-on effects on an organisation's culture. While the traditional ways of measuring impacts of sexual harassment tend to focus on the financial cost to a business, the negative consequences run deeper. The intangible effects include reputational damage, reduced productivity of workers, high staff turnover rates, absenteeism, and poor individual mental and physical wellbeing.

Unsurprisingly, we have seen an increasing expectation from the community and business stakeholders, such as institutional investors, that companies be better attuned to these issues. Sexual harassment in the workplace was such an important issue that it formed part of the campaign platform in the most recent federal election and, as part of a wider focus on the treatment of women, contributed to the election of the so-called 'teal' independents.

This wave of social and legal reform poses new compliance obligations. But at the time same, it presents an opportunity for business to reap the benefits of eliminating sexual harassment and promoting gender equality. It makes good business sense for employers to promote a positive workplace culture because this can lead to greater staff retention, enhanced productivity and economic benefits. These objectives are all the more important in this challenging economic climate and amidst the 'war for talent'.

Respect@Work Recommendation 17:
Amend the Sex Discrimination Act to introduce a positive duty on all employers to take reasonable and proportionate measures to eliminate sex discrimination, sexual harassment and victimisation, as far as possible.

Recommendation 18:
The AHRC be given the function of assessing compliance with the positive duty, and for enforcement.



SOPHISTICATED AND NUANCED SOLUTIONS NEEDED

Increasingly, business leaders are recognising that this complex problem can't be solved through policies, frameworks and procedures alone. As reported in the AFR, Matt Comyn, Chief Executive of the Commonwealth Bank, recently told an online forum convened by gender equality advocacy group Champions of Change Coalition that the problem required "sophisticated and nuanced solutions".

The introduction of the positive duty presents a timely opportunity for organisations to reassess their usual approach and existing practices. It is now imperative to ensure measures are targeted at prevention, not just reaction. Consistent with Mr Comyn's observations, employers need to recognise that properly addressing the issue of sexual harassment and creating a positive workplace culture requires a holistic approach.

Listen up

While sexual harassment impacts all industries, it affects each industry and workplace differently. Businesses should take the time to identify and understand the risk factors that exist in their organisation and tailor their approach accordingly.

This includes appreciating that within a single company, diverse workforces and workplaces may present different risks and issues (compare, for example, the environment of a remote mine site versus the corporate head office). Employers need to consider what a safe and fair workplace looks like to employees across all levels and a key part of this is listening to the employees who work there day to day; how comfortable do they feel with existing reporting avenues and does the culture and encourage and protect those who speak up? It is one thing to have a policy and reporting framework, but if the culture within the organisation does not support and protect those who speak up, those documents will be of little benefit.

Trauma-informed practices

Experts advise that feeling heard is an important part of a victim's experience throughout the complaint process. Gone are the days when protecting the reputation of the organisation and its leaders can be the primary guiding philosophy when dealing with a complaint. It is well recognised that a company's reporting and investigation processes can further traumatise victims of sexual assault and harassment.

With this in mind, business should consider the following ways to facilitate reporting and complaints handling processes:

- Acknowledging the important role of the bystander in the workplace – through implementing appropriate training and resources to support these people to speak up about instances of sexual harassment
- Establishing reporting mechanisms that are fit for purpose, allow for anonymous disclosures and provide alternative forums to make a complaint
- Ensuring there are trained and dedicated staff across all levels of the organisation who can be approached to raise a concern.

This approach recognises that people may not always be comfortable reporting incidents of sexual harassment and assault through existing communication channels, for example purely through a human resources function, and that a hybrid approach that offers a number of reporting mechanisms may be required.

The value of speaking up when sexual harassment is witnessed was demonstrated in the latest statistics released by the AHRC. The national survey on sexual harassment in Australian workplaces found that in the last five years, 61% of people who took action after witnessing or hearing about workplace sexual harassment said that the harassment stopped as a result.²

Proactive, not reactive

Creating a positive workplace culture requires businesses to take ongoing and proactive measures, particularly with the proposed introduction of the positive duty.

An appropriate response to sexual harassment in the workplace requires proper investment in training and educating the workforce. The level of emotional intelligence and understanding that employees have of the behaviours that constitute sexual harassment will vary across organisations. Employers should refocus their attention away from seeing their role in responding to this issue as a 'check box' exercise. Rather, they should take continued steps at regular intervals to adapt to the latest changes and ways of thinking.

Everyone in the organisation has a role to play

The responsibility for ensuring a company culture that stops sexual harassment starts with the board and executive team. If intervention and prevention is not a leadership priority, it is difficult to see how meaningful change can occur. This is a strong theme being identified in the research in this area and by businesses in their culture reviews.

However, taking steps to establish a positive workplace culture requires more than just action by the board or most senior members of the organisation. The message must permeate from the senior leadership of an organisation through to all levels of management. Middle management and team leaders must buy-in to the cultural change and recognise, and take responsibility for, their duty to role model the right behaviours.

Ultimately, each individual employee must reflect on how their behaviours, whether action or inaction, could contribute to a culture in which sexual harassment can be present.

Old habits die hard

The traditional approach to dealing with sexual harassment tended to be reactive and often focussed mainly on protecting the reputation of the company and its senior leadership. To that end, for those responsible for resolving a sexual harassment complaint, obtaining the complainant's agreement to strict confidentiality terms was frequently seen as a key outcome.

Developments both here and overseas have brought about much reflection on the use of confidentiality terms or non-disclosure agreements (NDAs). The criticism is that they operate to protect the reputation of the business and the accused harasser, and by keeping complaints under wraps they contribute to a culture of silence. With the anticipated development of 'best practice' guidelines from the Respect@Work Council and the foreshadowed legislation to be developed in Victoria which will restrict the use of NDAs, change is coming. Aside from legal reforms, the use of NDAs are becoming part of a wider discussion about transparency. For many organisations, particularly those with a significant public profile and for listed companies, careful consideration needs to be given to the appropriateness of NDAs on a case-by-case basis.

Another common conundrum faced by business is the 'informal' complaint where the victim is emphatic that they do not want a 'formal' investigation. In our view, it will be increasingly difficult to conceive of situations in which an allegation of sexual harassment can be ignored because the victim does not wish the company to investigate. Organisations will need to give close consideration to how they will respond to these types of complaints, and equip their employees with the tools to ensure that reports of this nature are handled with sensitivity.

While the legal reforms introduce a new compliance burden for business, this should not cloud the significance of these changes as an opportunity to identify and address workplace culture issues that enable sexual harassment to occur before they cause damage to an organisation and its people. It is a duty which deserves to be embraced.

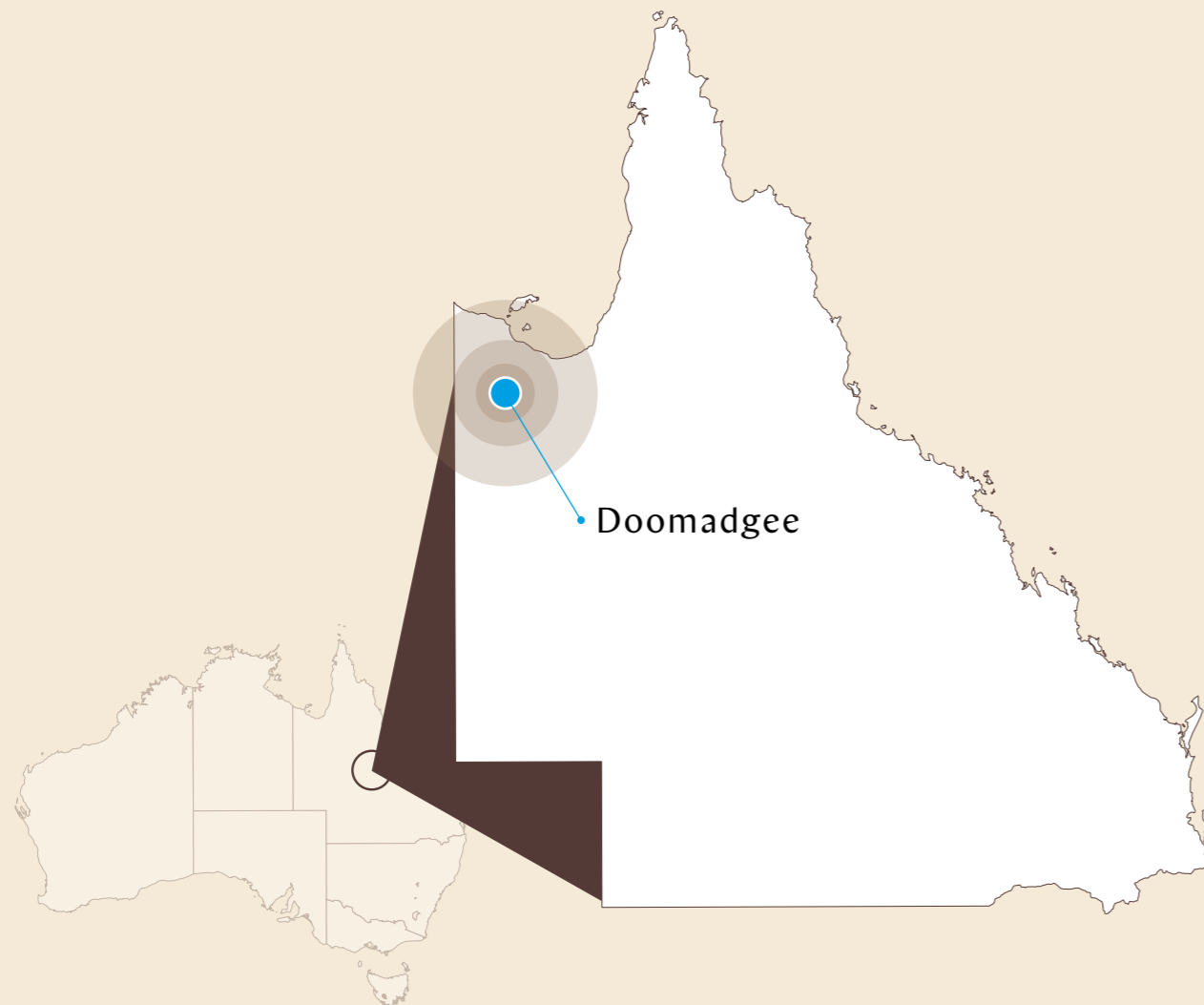
² Source of data: Australian Human Rights Commission, 'Time for respect: Fifth National Survey on Workplace Sexual Harassment (November 2022)', 15.





DRIVING FIRST NATIONS COMMUNITY-LED OUTCOMES THROUGH PLACE-BASED PARTNERSHIPS

WHAT CAN SHARED DECISION MAKING ACHIEVE?



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Introduction

Sharing a story of the remote north-west Queensland community of Doomadgee in Ganalidda and Waanyi country, this is an early stage case study of its place-based partnership under the National Agreement on Closing the Gap.

Doomadgee's Goonawoona Jungai is a new community-controlled organisation pursuing community-led development within their own community under a place-based partnership to make a difference for the future. Doomadgee, Tamworth in NSW and the East Kimberley in WA were chosen as the first three locations for place-based partnerships in August 2022 by the Joint Council on Closing the Gap.

This approach to enabling and involving communities in service delivery aims to make a meaningful improvement in closing the gap between the health, social and economic outcomes of indigenous and non-indigenous Australians. In the years since the Closing the Gap framework was established in 2008, progress has been unacceptably slow. Most targets are not on track to be met by 2031.¹ The newly-released 2022 Closing the Gap report unfortunately shows as many targets going backwards as are 'on track'. This emphasises the need to respond by empowering First Nations communities through NACG frameworks such as place-based partnerships as a critical part of the solution.

Cultural authority, community control and shared-decision making underpin the place-based partnership concept. The idea is a community centred framework under which all relevant parties agree to work together to achieve more effective and efficient outcomes. This concept reflects UN thinking emphasising the importance of First Nations People being equal partners in developing policies and programmes for their own communities.²

The Doomadgee challenge – illustrative of many inequalities faced by First Nations People

Doomadgee is a remote town on the Northern banks of the Nicholson River in the Lower Gulf of Carpentaria in Queensland. Many residents are Traditional Owners of the lands of this region (the Ganalidda and the Waanyi peoples).

Despite steps taken Australia-wide to close the gap between Indigenous and non-Indigenous populations, like most remote communities, Doomadgee remains greatly disadvantaged in comparison to the general Australian population.

Regardless of intention, effort, experience and resources, successive governments have failed to meaningfully facilitate positive and lasting health and wellbeing outcomes for the people of Doomadgee. Custodians of Ganalidda and Waanyi lands in and surrounding Doomadgee over thousands of years have developed ancient and enduring cultural values, knowledge and systems that have been passed from generation to generation through both song lines and story lines. Without listening to and respectfully collaborating with First Nations People, it is difficult to understand how best to deliver services for the community.

Beyond Doomadgee, First Nations communities across Australia continue to face profound inequality and grapple with many complex issues with higher social and socio-economic disadvantage compared to non-Indigenous people.³ For example: four in five diagnoses of Rheumatic Heart

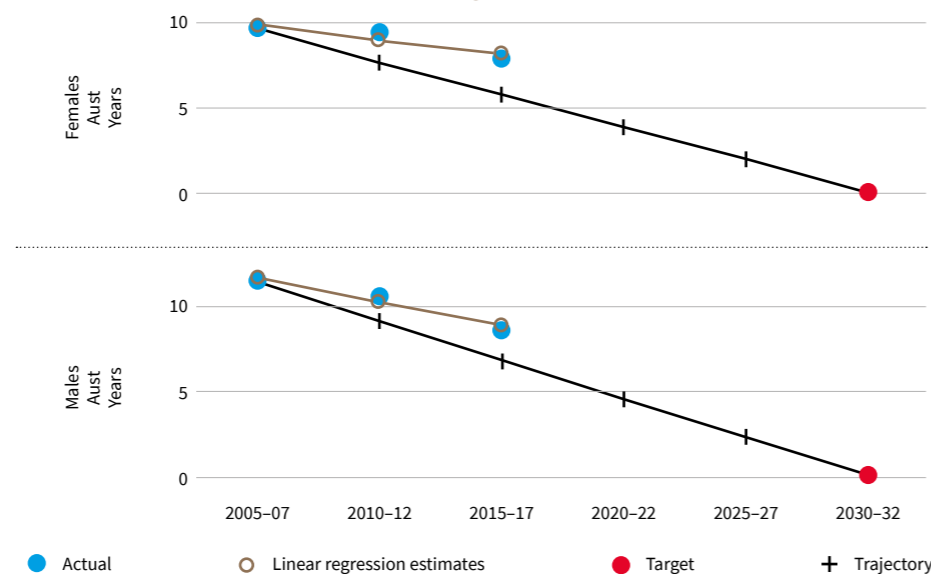
Disease (RHD) are among Indigenous Australians;⁴ the Indigenous child mortality rate is twice the rate for non-Indigenous children;⁵ non-Indigenous Australians report a median gross personal income 60% higher than Indigenous Australians.⁶

The gap in life expectancy between Indigenous and Non-Indigenous Australians remains high.⁷ The target to close the life expectancy gap between Indigenous and non-Indigenous people by 2031 is not on track.⁸

A major reason progress on closing the gap has been slow, despite various attempts designed by government to achieve change, is the failure to consult (properly or at all) with First Nations community based representatives for the delivery of services into community.⁹ A 'one-size fits all' approach by government departments (generally operating in siloes) without appropriate community consultation and input has not been effective. In the words of Ganalidda Traditional Owner and Goonawoona Jungai Chairman, Barry Walden 'it is forced upon, we are never consulted, or not enough, or for long enough.'

This was highlighted by the inquest into the tragic deaths of three Doomadgee women due to RHD (a preventable condition). As Barry Walden notes 'one of the key issues highlighted in the inquest was the lack of cultural practices in service delivery across the community.'

Difference in estimated life expectancy for Aboriginal and Torres Strait Islander children and non-Indigenous children at birth (a), (b)



Source: Table CtG1A.1, ABS Life Tables for Aboriginal and Torres Strait Islander Australians, Derived from ABS Life Tables for Aboriginal and Torres Strait Islander Australians, Joint Council National Agreement on Closing the Gap

What is the National Agreement

The timeline below outlines the steps since 2005 which led to the National Agreement.

NATIONAL TIMELINE



The National Agreement includes four Priority Reforms to change the way governments work, new government accountability measures, shared monitoring and implementation arrangements, and establishes 17 targets under the 17 socio-economic outcome areas to help bring focus to new areas and help monitor progress in improvements.

The four Priority Reforms are centred around:

1. Shared decision making
2. Building the community controlled sector
3. Systematic and structural change to mainstream government agencies and institutions and the way services are delivered; and
4. Shared access to locally relevant data.

¹ Australian Government Productivity Commission, Closing the Gap Targets and Outcomes (June 2022) (available at <https://www.closingthegap.gov.au/national-agreement/targets>).

² See United Nations Declaration on the Rights of Indigenous Peoples, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007). See also United Nations, Indigenous Peoples' Partnership (UNIPP) Strategic Framework (2011-2015).

³ See generally Australian Government, Closing the Gap Report (2020).

⁴ As at 31 December 2019. See Australian Institute of Health and Welfare, Acute rheumatic fever and rheumatic heart disease in Australia, 2015-2019 (available at <https://www.aihw.gov.au/reports/heart-stroke-vascular-diseases/acute-rheumatic-fever-and-rheumatic-heart-disease/contents/summary>).

⁵ Australian Government, Closing the Gap Report (2020), page 15.

⁶ Australian Institute of Health and Welfare, Indigenous income and finance (16 September 2021) (available at <https://www.aihw.gov.au/reports/australias-welfare/indigenous-income-and-finance>).

⁷ See the Australian Institute on Health and Welfare, Life expectancy and mortality of Aboriginal and Torres Strait Islander People, (May 2011); Australian Government Productivity Commission, Socioeconomic Outcome Area 1 (June 2022) (available at <https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area1>).

⁸ Australian Government Productivity Commission, Socioeconomic Outcome Area 1 (June 2022) (available at <https://www.pc.gov.au/closing-the-gap-data/dashboard/socioeconomic/outcome-area1>).

⁹ Coalition of Peaks, A report on the engagement with Aboriginal and Torres Strait Islander People (June 2020), page 11.



What is a place-based partnership?

Place-based partnerships reflect the simple idea that services are more likely to be successful when developed by and with the community to fit their unique needs and circumstances.¹⁰ By appropriately elevating the role of the First Nations community in decision-making, services or programs delivered to specific geographical locations and population groups are underpinned by cultural authority, respond to direct community needs, aspirations and local priorities, and will be more sustainable.¹¹

Structured as a partnership between government and First Nations representatives from the relevant area,¹² key elements of a place-based partnership include:

- An agreement between First Nations Peoples and up to three levels of government (and other parties as agreed)
- A signed formal partnership agreement made accessible to the public
- Shared, representative and transparent decision-making by consensus
- Adequate resourcing provided to support First Nations Peoples to partner with governments.¹³

The National Agreement identifies justice, social and emotional well-being, housing, early childhood care and development and First Nations languages as priority areas.¹⁴ Place-based partnerships will involve consultation with First Nations (in this case Gangalidda and Waanyi) communities to establish and deliver appropriate services in one or more of these areas.

*Toni Fraser, Goonawoona Jungai Director;
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¹⁰ Coalition of Peaks, A report on the engagement with Aboriginal and Torres Strait Islander People (June 2020), page 33.

¹¹ See Coalition of Peaks, Community Guide to Place-based Partnerships (available at <https://coalitionofpeaks.org.au/download/place-based-partnerships/>).

¹² The National Agreement Closing the Gap (July 2020), clause 30.

¹³ The National Agreement Closing the Gap (July 2020), clause 32(a)-(d).

¹⁴ The National Agreement Closing the Gap (July 2020), clause 38

CASE STUDY – GOONAWOONA JUNGAI – DOOMADGEE

The development of a place-based partnership in the Doomadgee community has been the key focus of Goonawoona Jungai, a new community-controlled organisation, the directors and members of which are (and must be) Gangalidda and Waanyi community members in Doomadgee. Goonawoona Jungai aims to give a voice to the Gangalidda and Waanyi Peoples in Doomadgee and will play a lead role in the design and delivery of their health, housing, disability, early childhood, children and youth justice services.

Goonawoona Jungai aims to conduct operations in a manner that is aligned with, and respectful of, the culturally embedded practices of Doomadgee community traditional owners. Doomadgee community members have shaped and designed the governance structure of Goonawoona Jungai to ensure it:

- Reflects cultural authority and specific needs, aspirations and structures of the Doomadgee community
- Is sustainable over the long term
- Is authentically community-controlled.

The Goonawoona Jungai Constitution states: “Under this new model, the voice of the First Nations people of the Doomadgee community (through community control), consistent with traditional cultural practices and informed by its remoteness and the uniqueness of its history, country and culture, will play the lead role in the design and delivery of services to and meeting the needs of the Doomadgee community.”

To date, Goonawoona Jungai has taken important steps in establishing themselves sitting alongside the Doomadgee Shire Council, to lead the place-based partnership in Doomadgee, including:

- Acknowledgement by the Queensland Government and by Joint Council that Doomadgee is the official site for the first Queensland place-based partnership
- Creating a company limited by guarantee with a constitution that was drafted to reflect community control
- Applying for charity status
- Holding the first board meeting and officially launching in August 2022.

The place-based partnership for Doomadgee, with Goonawoona Jungai, marks an important shift towards First Nations self-governance, and allows First Nations Peoples within Doomadgee to be at the forefront of key decision making processes that affect them and their community.

What have we learned and what comes next?

We have been privileged to work with community based traditional owners on the establishment of Goonawoona Jungai. We have deep respect for their project and their advocacy for the Doomadgee community. It has provided a unique opportunity for the KWM team to build our understanding of the lived experience, issues on the ground and local culture.

Our takeaways so far on the critical ingredients for a place-based partnership include:



Relationships

Creating relationships with all key stakeholders that are built on trust and mutual respect, in order to work as a team in the partnership.



Cultural authority

Having respect for and an understanding of where cultural authority sits within the community.



Support

Support and resources from established First Nations controlled groups such as the Coalition of Peaks, who have played an instrumental role in the development of the place-based partnership framework and the partnerships themselves.



Lived experience

Gaining input from locally based traditional owners with deep knowledge of country, culture and history, and the challenges that face their own families and community.



Adequate resourcing

Government support is essential to the success of place-based partnerships. The funding rules need to shift to a model consistent with community control. Appropriate (and untied) resourcing and funding will enable key stakeholders to work together to achieve substantially better outcomes consistent with the National Agreement and ultimately lead to a more efficient and effective allocation of government resources.

The road ahead will not be without twists, bumps and turns. However, by drawing on and respecting the National Agreement framework and continuing to lead with community-wide objectives, cultural authority and local knowledge and experience guiding decision making, there is great optimism for the future health and wellbeing of Gangalidda and Waanyi Peoples in Doomadgee.

EDITORIAL NOTE:

A longer version of this article is available on the KWM Community Impact Website.

Helpful resources on place-based partnerships are available on the Coalition of Peaks website.

Resources

- The National Agreement in summary is available [here](#).
- Video resources on the priority reforms can be viewed [here](#).
- Community guides to place-based partnerships can be accessed [here](#).



MANAGING CYBER RISK AND INCIDENTS - HOW CAN BOARDS DO IT WELL?



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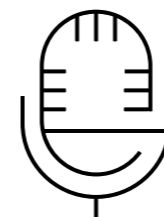
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You can watch to
the full conversation
[here](#), or listen [here](#).



*At King & Wood Mallesons' recent Digital Future Summit, Tech Law and Telecommunications, Media and Entertainment Sector lead **Cheng Lim** discussed cyber risk and response with a panel – Cyber Security Cooperative Research Centre CEO **Rachael Falk**, former Telstra CEO and Cyber Security Industry Advisory Committee Chair **Andy Penn**, and experienced company directors **Catherine Brenner** and **Mike Hawker AM**.*

Below are excerpts from their conversation, edited for length and readability.

Client contributors

Cheng Lim: Rachel, Andy, Catherine and Mike, thank you for joining us. As you view today's cybersecurity environment, what is one thing either government or organisations could do, which you think might make a real difference?

■ **Rachel Falk:** It's not just a technical problem or a cultural problem. If I could wave a magic wand today, it would see minimum cybersecurity standards in place for all companies, but certainly SOCI (Security of Critical Infrastructure) companies, to bring up cybersecurity standards to a level where we would potentially see less intrusions and less cyber incidents. But I say that reluctantly, too, because culture plays a huge part, as does having the right tools.

■ **Andy Penn:** It's not actually a tech problem. It's a business problem. It's a business risk, like any other and there's no reason why boards and management can't get their heads around the issues. Conceptually, it's actually not that complicated. The implementation, the execution and the defences obviously take a lot of work. But I do think boards can immerse themselves in this topic and get their heads around what the cybersecurity risks are, and what they need to do to protect themselves from them. Like any risk, you're never going to eradicate it completely. But our job is to take all reasonable practical steps that we can, and you've got to understand the topic - to enable you to have competence to do that, and ask the right questions.

■ **Catherine Brenner:** Promoting and developing a culture of cyber resilience. That's a mindset and practices that are built and maintained - that's really not dissimilar to the way that we approach the workplace health and safety risk. It's having a common language, personal responsibility, ownership, and a culture of speaking up and rewarding transparency. With that goes regular training, clear roles and responsibilities and response plans that are practised, current and adaptable and strong, all with regular consistent governance. So really, like so many other things, it's about the culture.

■ **Mike Hawker:** Your data is your lifeline, don't lose it. Think about it from a strategic point of view, which culturally, I think will help everyone improve the quality of their cybersecurity infrastructure, and the security of their data. On the flip side, I think that for critical infrastructure, the government has a lot more capability in this space than a lot of organisations do. It would be helpful for governments to work with organisations to try and reduce the risk, or in the event of a major crisis, give you some advice as to how to manage that, because I think there's a lot of complexity in regulated organisations where you might have different rules from different regulators, for instance, how long you have to hold your data.

THE IMPORTANCE OF INVESTING IN SELF-DEFENCE, TRAINING & FRAMEWORKS

Cheng Lim: Andy as ex CEO of Telstra, and someone clearly passionate about cyber, what are key things boards and companies can do to protect themselves?

■ **Andy Penn:** There's two lenses that I would apply to my business and my operations if I was on a board right now, and that will capture 95% of what you need to worry about. One, I would do an inventory of every computer system that exists across the organisation. So every discrete, computer system that exists across the organisation. I would then apply the lens of the essential 8, which is effectively a government framework. which says in relation to each system: Are we properly patching it? Have we got proper user access? Have we got multi factor authentication, etcetera? There's about eight basic cyber principles. Ask the question - where are we at in relation to that essential 8, and to the extent we're falling short, what is our plan to lift it? That would take you a long way forward in feeling a lot more confidence.

The other lens I would apply is in relation to the data that I hold, as the company. Can you answer these five questions in relation to any data that you hold in the company. They're questions such as: What is the data? Where is it? How is it protected? Who has access to it? Now, if you just imagine as a board of directors, if you had an inventory of all of your systems, and how they were protected and how they scaled in relation to the essential 8, and you had an inventory of all of the aspects or databases or components or cohorts of data that you had: Where is it, who's protecting it, who's got access to it? That would actually take you a very, very long way down the path to a more confident way to manage your cyber risk.

Cheng Lim: Rachael, how do you think boards can actually assess what good looks like?

■ **Rachel Falk:** To Andy's point. Spend more time because good isn't just, 'can we go down the list and are we complying with the [NIST framework](#)? (Note: A US-developed cybersecurity protocol) Or whatever?' It's got to be - 'OK, have we done an audit? You know, where's our CISO or CSO?, Can you give me confidence that right down from the board to the person at the more junior level of the organisation understands that this is our risk appetite?' You can't eliminate this risk completely. Get a third-party audit, actually test every important aspect of your organisation.

Cheng Lim: Catherine, you're chair of Australian Payments Plus and you're on the Board at Scentre, two organisations that sit at the heart of where we shop and how we pay for it. What keeps you awake at night on cyber?

■ **Catherine Brenner:** I quite like the framework, which talks about soft defence, passive defence and an active defence. What does that mean? So soft defence is really the people part. That's the training and a cyber resilient culture, you know, don't click on the phishing email, don't let someone tailgate in thinking you're being friendly, because they've lost their pass. If something doesn't seem right, or you think you might have made an error speak up really quickly. Then there's the passive defence elements that goes into the recipe for getting a good night's sleep. And that's the sort of stuff Andy was talking about. That's what I think of as network hygiene. Probably a little bit of training is sitting on top of that as well, but really investing in the cyber resilient culture is that active defence part.



THE VALUE OF ENGAGING EXTERNAL EXPERTS TO ASSIST WITH AUDITS AND COMPLIANCE

Cheng Lim: Mike, how do you think boards can better equip themselves to do this? What do you think about boards needing to have members who have technology expertise?

■ **Mike Hawker:** I think you're better off having people come in who are experts in different parts of that field, to help you navigate and understand what is going on in terms of how you need to set up your data, how you democratise it, all the elements of collection, trying to put all the capabilities around it to meet all your requirements from a customer point of view, how you use it internally and from a regulatory point of view. Regulations are really just good processes to give you better governance of your data. In terms of the board mix, I don't think you're going to have one single specialist, you've got to have a collection of people coming in and bringing different perspectives from different angles. - As to the threat vectors, how to manage data and various different components in the front end, the middle layer or a back end? And then clearly, you've got to test all this stuff. Find out the data you might have, which is the most critical if you lost it, and then work out from there. I do think that you can materially change the risk if you can find the critical data and have it encrypted and have some processes around being able to access it. It's getting that mindset moving. I'm not saying you don't do the compliance. But try and change it to where people actually understand why it's important and how your role may or may not impact the ability for somebody to come and steal the data from you.



INFORMATION SHARING, AND THE ROLE OF GOVERNMENT

Cheng Lim: Andy, have you got any insights you can share with us about what government's thinking about in terms of protecting the nation from cyber threats?

■ **Andy Penn:** I've made this point to government – be careful throwing Optus or anybody else under the bus. There is no organisation in this country that holds more data, customer data, than federal and state governments. Government needs to play a role in relation to hardening its own systems. Another area is in sort of what I would describe as national programmes that benefit everybody. So, things like threat sharing, or skills building, awareness building, or digital identity programmes, data, sovereignty programmes, government procurement programmes. This is stuff that government can do, that filters through the whole economy. It's largely in the current strategy, but I think it all could be substantially beefed up and accelerated, particularly given the rate of digital adoption and the rate of increase in malicious activity.

HOW TO RESPOND TO A RANSOM ATTACK

Cheng Lim: Let's imagine you're directors of a company which has been hacked, and services have been disrupted and data stolen and a ransom demanded. How would you approach this issue? Starting with you, Catherine, what are the key considerations and what advice would you be asking for and who from?

■ **Catherine Brenner:** I'd be looking to have Cyber Incident Response experts, legal expertise, external crisis communication people around the table providing advice. Hopefully, we already had them in place - to enable a much more rapid response, to have had the insurers sign off on them and be comfortable with them, and also involve them in simulations. And the sorts of questions that you would be asking them and looking for their advice on is on severity, the impact on business operations, reputation and key stakeholders. There might be a possible loss of human life or another catastrophic outcome, which could be imminent, and weighing up against the risks of a non-restoration of data or public disclosure, future attacks or being in breach of the laws such as terrorism, financing, and your insurance conditions, and also the overlay of ethical considerations. A whole lot of information that we need, and advice off the back of incomplete and changing information. It all feeds into the task of decision-making in what could well be a no-win situation.

■ **Mike Hawker:** I do think that it becomes a quite interesting issue for directors - 'do you pay or not pay a ransom?' Everyone wants to say, 'you don't pay'. But if you're a hospital, and you've got operating theatres, and you've got people in theatre - the duty of care to the health of the person versus paying someone who may be illicit is an interesting question. How do you measure your customer duty? If you're stuck in the middle of this? Legally? That's a difficult issue to deal with. It helps if there was some discussion about that.

THE IMPORTANCE OF RIGOROUS TESTING

■ **Mike Hawker:** This decision-making, it is not black and white. And that's why you have experts in the field to help navigate some of the greyness in the decision making. So, experts on telling you who is a threat actor, experts on your legal responsibilities, what you can and can't do, your obligations from a customer point of view. But I think the most critical thing is you need to have this tested regularly. It's no good, making that decision on the day that something happens, because it's way too late. You needed to have that organised, and you don't want too many people who haven't been through those processes, because you tend to, through practice, get better organised at who does what and quick decision making.

■ **Catherine Brenner:** Scenario planning and testing and simulations are really important. Unless you're feeling pressure and stress in those scenarios, and those simulations they're not worthwhile. You need to feel sick. You need to be feeling that the sweat beads are there because really the scenario is about testing the ability of the team and individuals to work under pressure, with incomplete information and changing information, particularly because they can very quickly move beyond the cyber realm.

THE COMMUNICATIONS PROBLEM

■ **Andy Penn:** You need to be out there on the front foot communicating, telling people what you do know, and being honest about what you don't know. And, you know, that was always my approach - 'I can tell you this, but I don't know that. But you'll be the first to know when I've got more information'. And journalists will say, 'Well, can you guarantee it won't happen again?' 'No, I can't guarantee that. But I can guarantee that I've got every appropriate resource in the company doing everything they possibly can'. So, my first principle is - be on the front foot with the communication. And don't fear not having all the facts at your fingertips. It's difficult. It's an awkward, unsettling situation to be in, but go out, open up and take it head on.

■ **Catherine Brenner:** Communication is absolutely critical. What can we say given all of this and how much we don't know? To our staff, our customers, suppliers, investors, law enforcement, media regulators, all of the different stakeholders, and know - who is going to be responsible for communicating that to those stakeholders?

■ **Andy Penn:** Initially, you'll feel like the victim. But if you allow that to manifest itself into your communications, that's going to run badly for you. You have to put the customer at the heart of everything. Recognise they're the ones who've got the vulnerability now. And I would be always advising to be more open and less open. That's because the person who's best positioned to make a judgement is the person whose customer data it is. And so therefore, I believe that if a company develops a reasonable basis to believe that personal information in relation to their customers may have been leaked, then they have an obligation to tell those customers as soon as is practicable.

■ **Mike Hawker:** You can't have the view that this is not going to happen to our company.

■ **Rachel Falk:** Absolutely. If you're running a business and you're connected to the internet, even with one computer, you're at risk.





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