



## **Discussion Paper**

**for the Review of the Mental Health Commission of NSW**

**pursuant to section 20 of the Mental Health  
Commission Act 2012 (NSW)**

**April 2024**

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## Introduction

Section 20 of the [Mental Health Commission Act 2012 \(NSW\)](#) (Act) requires that the Minister for Mental Health, the Hon Rose Jackson MLC (Minister), undertakes an independent statutory review of the Mental Health Commission of New South Wales (Commission), at least once every five years after the first review.

The first review of the Commission was conducted in 2017, and completed in 2018 (2017 Review). The 2017 Review culminated in the [Review of the Mental Health Commission of New South Wales Report to Parliament 2018](#).

The purpose of the current review is to critically assess the role and functions of the Commission, the effectiveness of the work it has undertaken in the period from 2018 to date, as well as its legislative framework, and to recommend any potential improvements to ensure the best mental health outcomes for the people of New South Wales (NSW). The review must canvass all options, exploring all potential recommendations for the future state of the Commission, and encourages diverse perspectives, evidence-based insights, and innovative ideas.

This discussion paper is prepared to guide consultations and submissions throughout the review process. It provides a brief background of the Commission, and:

- Details the terms of reference for the review (see **Appendix 1**)
- Outlines the current objects, functions, and governing principles of the Commission
- Outlines the relevant legislative provisions of the Act
- Details the recommendations from the 2017 Review (see **Appendix 2**)
- Details the Commission's notable achievements since 2018
- Sets out the following seven Key Discussion Topics, each with consultation questions, to guide the consultation process and the submissions to be made as part of this review:
  1. Is the Commission fulfilling its purpose of monitoring, reviewing and improving the mental health and wellbeing of the people of NSW?
  2. Is the Commission targeting and achieving the system change that is necessary?
  3. Has the Commission exercised its functions effectively?
  4. Is the Commission still required, in order to achieve the objectives of the Act?
  5. Does the Commission require new functions or powers to achieve the Act's objectives?
  6. Should the Commission work differently with other state and national commissions?
  7. Is the Health portfolio the right place for the Commission to fulfill its whole-of-government remit?

Throughout this discussion paper, some of the language used is taken from relevant sources of information, such as legislation, studies and other literature, as referenced. This results in an element of inconsistency in some terminology used, for example the terms ‘mental illness’, ‘mental health challenges’, ‘consumers’, and ‘people with lived experience’. Wherever possible, an effort has been made to use language which is consistent, appropriate and inclusive throughout the document.

## About the Commission

In Australia, the mental health service system is a complex combination of public and private systems. The Australian, state and territory governments share responsibility for mental health policy and the delivery of services in mental health, while funding is shared between the Australian, state and territory governments, individuals, and private health insurers. This set of arrangements significantly complicates the role of the Commission.

In NSW, the mental health system has evolved over time, and a broad array of state and federal agencies provide supports which complement and enhance treatment. It is important to understand the whole-of-government, and whole-of-community, support that underpins effective mental health care. A brief recent history of mental health reform in NSW is set out below.

### *History of the Commission*

In 1983, David Richmond led an Inquiry into Health Services for the Psychiatrically Ill and Developmentally Disabled (Richmond Report), the results of which were ground-breaking. The Richmond Report recommended further systematic deinstitutionalisation of the mental health system, which had commenced in the 1950s, and a shift towards the provision of community-based services to people with mental health challenges<sup>1</sup>.

Since the Richmond Report, Australia has seen the establishment of mental health commissions in almost all Australian jurisdictions, and the undertaking of many inquiries, reviews and reports at national, jurisdictional and local levels. The reviews have indicated the increasing demand for mental health services, the immense cost associated with poor mental health, and the degree of need the system is failing to meet<sup>2</sup>.

Below is an overview of the reform journey at national and state levels, prior to the establishment of the Commission:

- 1992 – Australian Health Ministers’ agree to the National Mental Health Policy
- 1993 – Human rights and mental illness: Report of the National Inquiry concerning the human rights of people with mental illness
- 1993–1998 – First National Mental Health Plan
- 1998–2003 – Second National Mental Health Plan



- 2000 – Revision of NSW Mental Health Act
- 2002 – NSW Legislative Council Select Committee on Mental Health report
- 2004–2008 – Third National Mental Health Plan
- 2006 – The Council of Australian Governments (COAG) considers mental health an issue of national significance and promulgates the 2006–2010 National Action Plan on Mental Health
- 2007 – Review of NSW Mental Health Act and Mental Health Forensic Provisions
- 2009–2014 – Fourth National Mental Health Plan
- 2010–2016 – Establishment of mental health commissions in Western Australia, NSW (in 2012), Queensland, South Australia and the National Mental Health Commission (NMHC)
- 2011 – NSW Government taskforce set up to consult and advise on establishing a commission in NSW
- 2012 – the Act established the Commission.

In September 2023, Victoria established a mental health commission. Tasmania and Northern Territory are the only Australian jurisdictions without a mental health commission or similar entity.

#### *Establishment and governance of the Commission*

The Commission was established as an independent statutory agency under the Act (s 5), and became operational on 1 July 2012. The Commission’s purpose is to monitor, review and improve the mental health and wellbeing of the people of NSW (Act s 3).

The Commission is unique in that it reports to both the Minister for Health and the Minister for Mental Health, and either the Commissioner (Commissioner) or at least one Deputy Commissioner must be a person who has, or has had, a mental illness (Act s 8).

The Commission is subject to the Minister’s direction and control except in relation to the preparation and contents of any plan or report prepared by the Commission (Act s 9), and the Minister may provide an annual Charter Letter outlining key priorities to guide the Commission’s work in the respective year ahead<sup>3</sup>. The four preceding Ministers have issued annual Charter Letters. However, the current Minister has not chosen to do so.

The Commission is led by the Commissioner, appointed by the Governor of NSW (Governor) (Act s 6), and supported by the Commissioner’s Advisory Board (Board). The Board consists of the Deputy Commissioners, who are also appointed by the Governor (Act s 7). The Act permits the Commission to delegate any of its functions to a Deputy Commissioner or a member of its staff (Act s 15). As a statutory organisation, the Commission cannot employ its own staff, and the Mental Health Commission Staff Agency carries out this role.

The Commission is advised by the Mental Health Community Advisory Council (Advisory Council), appointed by the Minister, and the Audit and Risk Committee (ARC) whose members are appointed by the NSW Government. Members of the Advisory Council



represent people with lived experience, their families and carers, government agencies, non-government agencies (NGOs), service providers, and members of the community, as required under the Act (s 10(4)). The Advisory Council is governed by the Commission’s [Charter of Governance and Terms of Reference, October 2023](#) (2023 Charter of Governance)<sup>4</sup>. The 2023 Charter of Governance requires that the composition of the Advisory Council reflects the diversity of the NSW community, including people living with a disability, LGBTIQ+ communities, and young people<sup>5</sup>.

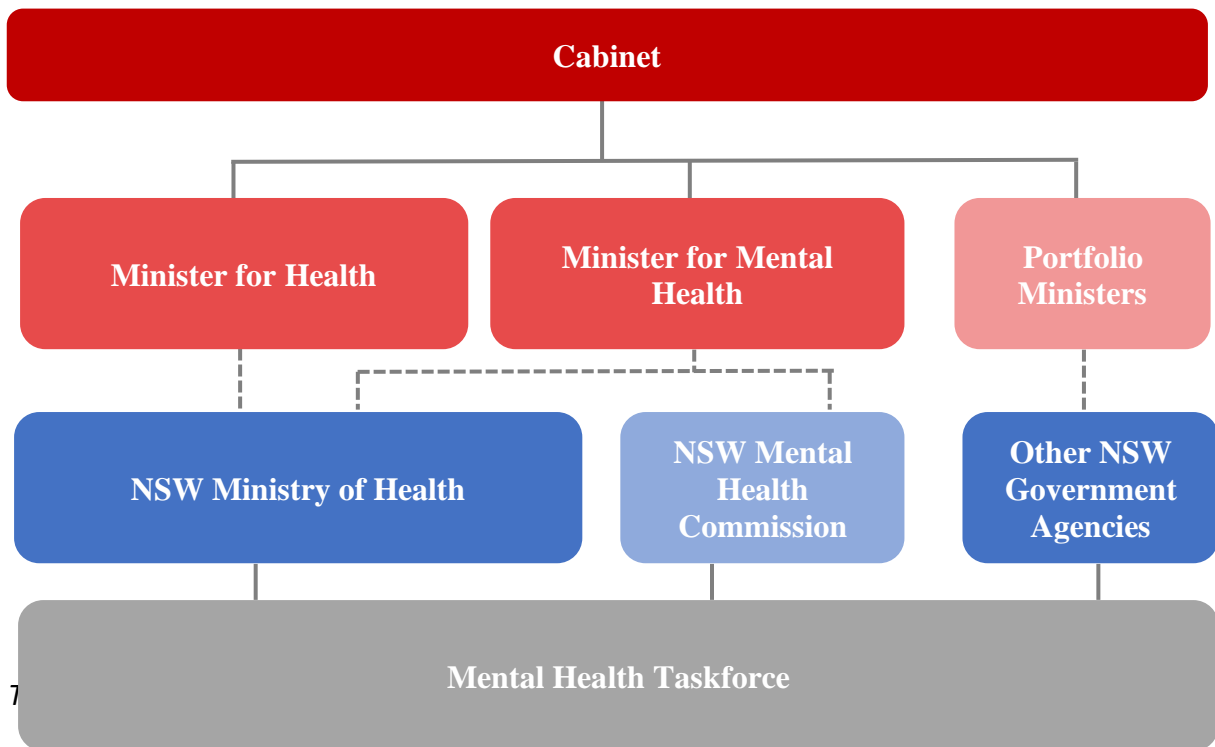
The Commission does not:

- Investigate individual complaints or oversee professional standards
- Provide services or advice directly to individuals
- Hold budget for government expenditure on mental health services.

Rather, the Commission plays a strategic role in advising the NSW Government on mental health services, planning, and reform initiatives in NSW. The Commission also has a role in advocating for better services, and collaborating with stakeholders to enhance mental health outcomes for the community.

Since the 2017 Review, the Commission has become a full member of the NSW Mental Health Taskforce, and has received direct input and advice from the NSW Mental Health Cross Agency Working Group in relation to the development of its monitoring and reporting framework, and Living Well in Focus. The diagram in Figure 1, below, shows the overarching governance model for the Commission.

**Figure 1: Overarching Governance Model<sup>6</sup>**



----- Reports to above group

\_\_\_\_\_ Member of above group



Section 12 of the Act sets out the Commission's functions, which involve undertaking the following tasks in relation to mental health and wellbeing in NSW:

- Prepare strategic plans
- Monitor and report on the implementation of strategic plans
- Review and evaluate, and report and advise on, the mental health and wellbeing of the people of NSW including conducting systemic reviews of services and programs provided to people with mental illness, and other issues affecting people with mental illness
- Promote and facilitate the sharing of knowledge and ideas
- Undertake and commission research and innovation
- Advocate for and promote the general health and wellbeing of people with mental illness and their families and carers
- Educate the community, including for the purpose of reducing stigma and discrimination associated with mental illness
- Advocate and promote prevention and early intervention.

In essence, the role of the Commission is to fulfill the objects of the Act in accordance with the governing principles, with a focus on strategic planning, systemic reviews and advocacy.

The Act states that a public sector agency, which includes the Commission, should have regard to the following governing principles in exercising its functions (Act s 3A):

- People who have a mental illness, wherever they live, should have access to the best possible mental health care and support
- People who have a mental illness and their families and carers should be treated with respect and dignity
- The primary objective of the mental health system should be to support people who have a mental illness to participate fully in community life and lead meaningful lives
- The promotion of good mental health and the effective provision of mental health services are the shared responsibility of the government and non-government sectors
- An effective mental health system requires:
  - a co-ordinated and integrated approach across all levels of government and the non-government sector, including in the areas of health, housing, employment, education and justice, and
  - communication and collaboration between people who have a mental illness and their families and carers, providers of mental health services and the whole community.



## About the Review

### Requirement for Review

The 2017 Review found that the Commission had fulfilled its functions under the 2016 version of the Act, and made 17 recommendations. The Commission endorsed 16 of the 17 recommendations.

The recommendations emphasised the focus on improving mental health outcomes for the people of NSW, which requires partnering with local communities to be successful. A table setting out the 17 recommendations including details of proposed legislative amendments, the NSW Government's response, and evidence of implementation of each recommendation, is at **Appendix 2**.

Some of the more significant changes that flowed from the 2017 Review, are set out below:

- The Objects of the Act (s 3) were amended to delete the words 'the mental health system', thereby focusing the Commission's role on the people of NSW. This was recommended because there were other organisations established for the purpose of monitoring the system (Recommendation 1)
- Section 12 of the Act was amended to refocus the Commission's functions on strategic planning, systemic reviews, and advocacy, as well as to remove 'policy development' from its functions (Recommendation 3)
- Section 14 of the Act was amended to require any agency served with a report prepared by the Commission (relevant to that agency), to respond in writing to the report within a period of six months (Recommendation 6)
- The Commission became a full member of the Mental Health Taskforce in 2018, strengthening its whole-of-government governance (Recommendation 7)
- Section 12(2) of the Act was amended to require the Commission to take into account the particular views of the populations identified in the Act (Recommendation 11)
- Section 12(2)(e) was amended to include specific reference to young people (Recommendation 12), and gay, lesbian, bisexual, transgender, and intersex communities (Recommendation 13), so that the particular views of those population groups are required to be taken into account by the Commission.

In relation to the Commission's functions more generally, the 2017 Review recommended (Recommendation 3) the Commission should focus on three primary functions, being strategic planning, systemic reviews and advocacy, with the remaining functions (knowledge sharing, and research and innovation) to be considered by the Commission as 'enabling functions', to be exercised only in alignment with the primary functions<sup>7</sup>. It is unclear whether the Commission has adopted this view.

In the Commission's response to the 2017 Review, it committed to<sup>8</sup>:

- Enhancing its partnerships and co-production with people with mental health challenges and their families and carers, government workforce groups and the community



- Reviewing and strengthening its engagement with young people, trans and gender diverse people, culturally and linguistically diverse people, Aboriginal people, and people living in rural and remote areas
- Implementing its five-year strategic plan '*Key Directions 2018–2023*' to focus on advocacy, strategic planning and systemic reviews
- Continuing to promote wellbeing for the whole community, and those with lived experience of mental health challenges and their families, carers and kinship groups
- Establishing a cross-agency working group to co-design, implement and monitor a strategy on how best to work with other government agencies
- Renewing its efforts to engage with people with lived experience, their families, carers and kinship groups
- Improving the social and emotional wellbeing of Aboriginal people in NSW, and establishing an Aboriginal governance mechanism.

Section 20 of the Act requires an independent statutory review of the Commission be undertaken every five years after the first review. The review is to cover both the work undertaken by the Commission, taking into account its functions and the principles governing its work, as well as the provisions of the Act itself, to determine whether the policy objectives remain valid, and whether the terms of the Act remain appropriate for securing those objectives. The Key Discussion Topics set out in this paper cover these required elements.

### Process of Review

The discussion paper will be distributed to key stakeholders and published online via NSW Health, seeking submissions from interested parties. All stakeholders are invited to respond to this discussion paper.

The review is being undertaken by independent consultants, David McGrath and Dr Richard Matthews (Reviewers), who will co-author the final report canvassing options for improvement, if required, and making recommendations in respect of both the Commission and the Act. The final report will be provided to the Minister, and tabled in Parliament, as required by the Act.

The methodology for the review will include:

- Stakeholder consultations
- Interviews with key stakeholders
- Data collection and analysis
- Consideration of stakeholder submissions
- Reporting.

An Expert Advisory Group comprising government and non-government members has been established to provide input and advice at select points during the review process.

## Achievements of the Commission

### *Background*

In December 2014, the Commission released *Living Well: A Strategic Plan for Mental Health in NSW 2014–2024* (Living Well), a whole-of-government 10-year plan for mental health and wellbeing in NSW, designed to support people living with mental health challenges, their families, carers and kinship groups to live full and rewarding lives. Living Well was developed following consultation with more than 2000 people and organisations, including people with lived experience of mental health challenges and carers.

Living Well includes indicators (Living Well Indicators), or measures, to monitor and report on the progress of efforts to improve mental health in NSW. The indicators measure outcomes across the domains of a person's life, and any improvements seen across the community and across human services, to identify change at a state or regional level, over time. Importantly, the indicators have been developed by the Commission in consultation with people with lived experience of mental health challenges within NSW. The data for the indicators is sourced from the Australian Institute of Health and Welfare (AIHW), the Australian Bureau of Statistics (ABS), and the Household, Income and Labour Dynamics (HILDA) Survey from Melbourne Institute. Indicators are updated on the Commission's website when new data becomes available.

### *Living Well in Focus*

In 2019 and 2020, the Commission undertook a mid-term review of Living Well, which resulted in an updated mental health strategy for NSW, '*Living Well in Focus 2020–2024*' (Living Well in Focus). Living Well in Focus identifies three whole-of-government strategic priorities, seven focus areas, and 24 actions for mental health and wellbeing, to be implemented in the period from 2020 to 2024. The three strategic priorities are:

1. Strengthening community wellbeing
2. Strategically investing in wellbeing and mental health
3. Ensuring the right workforce for the future<sup>9</sup>.

Living Well in Focus includes a specific focus area for Aboriginal people, and recommends actions that aim to improve their social and emotional wellbeing. It introduces new indicators designed to measure the impact of Living Well in Focus, and other areas of mental health care that people in NSW are experiencing, including the Primary Health Networks, the National Disability Insurance Scheme (NDIS), and the Fifth National Mental Health and Suicide Prevention Plan. Details of the indicators can be viewed [here](#).

The essence of Living Well in Focus is the 24 key areas of action for mental health reform, to be implemented by government agencies. The 24 actions, which can be viewed [here](#), have



been organised into five categories where similar work is required in response to multiple actions, as follows:

1. Actions to strengthen partnerships, co-design and engage with others
2. Actions to support the development and implementations of policies and plans
3. Actions to develop models and tools to support service program and delivery
4. Actions to invest resources with a strategic view to addressing needs
5. Actions to build the capacity of the workforce<sup>10</sup>.

The Commission has developed a Monitoring and Reporting Framework for Living Well in Focus, indicating that three reports will be produced over the life of the plan as follows:

- Report 1 – to outline the work planned by each participating agency and organisation, including the outcomes they hope to report on (a report was produced in 2021)
- Report 2 – a mid-term report on activity and achievements, and setting the focus for the remainder of the plan (a report was produced in 2023)
- Report 3 – reporting on final outcomes of the plan, and recommendations for the future<sup>11</sup>.

The Monitoring and Reporting Framework:

- States the Commission is to coordinate the monitoring of, and reporting on, Living Well in Focus
- Sets out principles for monitoring and reporting on the 24 Living Well in Focus actions, including:
  - Principles for reports, for example they are to include broader reflections on how the activities undertaken align with the three strategic priorities
  - Principles for data collection and collation, including encouraging a collaborative approach, and public release of information<sup>12</sup>.

The Commission’s 2021 review of Living Well in Focus assessed what was happening in, and planned for, NSW across whole-of-government, and is reported in ['Living Well in Focus 2020–2024, Report One: Stocktake of the work ahead' \(Report 1\)](#). Report 1 detailed mental health and wellbeing initiatives being carried out by agencies in response to Living Well in Focus, including the following:

- Hart Yarns program – engaging with Aboriginal communities using the cultural tradition of storytelling or “yarns” to pass on messages (Living Well in Focus Action 5: Strengthen Aboriginal partnerships)
- NSW Aboriginal Mental Health and Wellbeing Strategy 2020–2025 – designed to support and assist NSW Health services in delivering respectful and appropriate health services in partnership with Aboriginal services, people and communities (Living Well in Focus Actions 5–8)
- Allied Health in Mental Health Workforce Project – a strategic report to improve understanding of the NSW Health Allied Health in Mental Health workforce and identify opportunities to deliver care that best meets the health needs of people with lived experience of mental health challenges, their families and carers (Action 22: Address critical workforce shortages in public mental health services)

- Introduction of the PAX Good Behaviour Game into primary schools by the Education Department – a system of trauma-informed strategies to build self-regulation in children, strengthen peer networks, reduce impulsivity and teach proactive social decision making in young children (Action 1: Identify strategies that build community recovery, and Action 3: Invest in wellbeing, prevention and early intervention programs and services)
- The Commission, in partnership with the NSW Council of Social Service and the University of Canberra, conducted a project to develop a set of resources to support the effective use of community assets in the recovery and rebuilding process (Action 1: Identify strategies that build community recovery)<sup>13</sup>.

In 2023, the Commission conducted a mid-term review of Living Well in Focus, involving re-engagement with the government agencies responsible for implementing the plan, to assess what progress had been made. The results are reported in [Living Well in Focus 2020–2024: Mid-term Progress Report](#) (Report 2). The ‘Score Card’ published in Report 2, indicates:

- 7 of the 24 actions have been ‘achieved’
- 9 of the 24 actions are ‘progressing well’
- 8 of the 24 actions have ‘more to do’<sup>14</sup>.

#### *Update to Living Well in Focus*

The [Commission’s Strategic Plan 2023–2028](#) is an update to Living Well in Focus, that identifies five strategic priorities for the overall direction of the Commission:

1. Leverage its position to guide and activate whole-of-government efforts in reform through developing evidence-informed reports and frameworks
2. Develop the evidence base and promote innovative models to drive system improvement and outcomes, especially for people with complex and severe mental health challenges, and regional and rural communities
3. Strengthen accountability and reporting on mental health reform through enhancing its public reporting, embedding the expertise of communities and elevating the voice of people with lived experience
4. Develop its professional capabilities to support our people to thrive at work and maximise their potential
5. Improve its internal processes and systems to create an efficient and effective workplace, through contemporary business practice and efficient work practices<sup>15</sup>.

In terms of the workforce of the Commission, the Strategic Plan 2023–2028 undertakes to ‘Develop our professional capabilities’ by:

- *“Training staff and encouraging ongoing education to broaden and deepen existing skill sets*
- *Promoting a culture that values engagement, open communication and constructive feedback”<sup>16</sup>.*

#### *Stakeholder engagement*

The Commission engages with many different stakeholders, such as:



- All people in the community, including priority population groups and communities
- Government agencies, community-based organisations, members of parliament including the Minister, mental health professionals, workforce groups, business and private sectors, social support and other sector representatives.

In 2019, the Commission developed an [Engagement Framework](#) and Charter, outlining how it commits to working with stakeholders to inform its work, and stating that the Commission will tailor its engagement with each stakeholder in a way that is suitable to the stakeholder and the project. The Commission states it will focus on collaborative and co-design engagement methods wherever possible<sup>17</sup>.

Also in 2019, the Commission developed a [Government Engagement Strategy](#), which provides a framework for engagement with the diverse range of NSW government agencies. Collaboration and partnering for joint efforts, for example consultations with local communities to better understand needs, underpin the strategy<sup>18</sup>.

The Government Engagement Strategy operates at four engagement levels, with differing mechanisms of engagement to be used in respect of different categories of government agencies. The whole-of-government level of engagement, which focuses on identifying priorities across government, and developing and monitoring key mental health and wellbeing strategies and programs, includes central agencies of government, and the Health, Education and Communities portfolios. The engagement mechanism for this level is the NSW Mental Health Taskforce, of which the Commission became a full member in 2018<sup>19</sup>.

#### *The Commission's notable achievements since 2018*

In the period from 2018 to date, the Commission's notable achievements include<sup>20</sup>:

- October 2018 – Strategic Framework in Suicide Prevention 2018–2023
- 2018 – Key Directions 2018–2023 – outlining priorities, focus areas and opportunities to partner with stakeholders
- December 2018 – Lived Experience Framework released, encouraging service providers to embrace the value that people with lived experience can offer in their work
- 2019 – a series of 57 community consultations for Living Well's mid-term review, and visits to Aboriginal communities across NSW, were carried out
- 2019 – Living Well review
- 2019 – Engagement Framework, including an Engagement Charter
- 2019 – Government Engagement Strategy
- 2020 – Living Well in Focus 2020–2024 released
- 2020 – Living Well in Focus 2020–2024 Monitoring and Reporting Framework
- 2020 – The Commission made submissions to the Productivity Commission's Mental Health Inquiry
- 2021 – Living Well in Focus review: Stocktake of the road ahead

- February 2021 – the Commission’s Mental Health Literacy initiative was launched, and invited to participate in the World Health Organisation’s mental health literacy network
- June 2021 – COVID-19 survey results were released, showing around half of the NSW population had accessed some type of formal or informal mental wellbeing support
- July 2021 – co-developed Our Council Cares, teaching tools and techniques for supporting customers who may be feeling mental health distress
- December 2021 – Insights Report released, which was part of a project partnering with NSW Council of Social Service and the University of Canberra, creating resources and reports for Living Well in Focus Action 1, to identify strategies that build community recovery following a series of natural disasters and the COVID-19 pandemic. The report found that local assets play a vital role in building resilience and in recovery
- 2021–2023 – Peer navigation project undertook funding and evaluation of four pilot sites for ‘peer navigation’, where certain mental health services employed individuals with lived experience, to help people navigate their way through the mental healthcare system. This resulted in improved personal recovery outcomes and increased willingness to seek help, and people with mental health challenges experienced increased access to services that reflected their diversity and needs. It also reduced staff workload, and improved their appreciation of lived experience<sup>21</sup>
- March 2022 – a new book was released recognising women who have led the way in mental health reform in NSW, ‘Hope, strength and determination: Celebrating 50 years of women activists and reformers in mental health in NSW, 1970–2020’
- April 2022 – updated Mental Health Commission of NSW Strategic Plan for 2022–2023 released
- May 2022 – funded 100 scholarships for study in Certificate IV Mental Health Peer Work across NSW
- October 2022 – Updated framework for suicide prevention released, ‘*Shifting the Landscape for Suicide Prevention in NSW – A whole-of-government Strategic Framework for a whole-of-community response 2022–2027*’, setting out key priorities and focus areas. This updated framework aligns with the National Agreement on Closing the Gap, the National Mental Health and Suicide Prevention Agreement, National Suicide Prevention Advisor’s Final Advice, and evidence
- 2022 – Monitoring and Evaluation Plan – ‘*Tracking Change in Suicide Prevention*’ released, which sets out the approach to be taken by NSW Government agencies to provide insight into whole-of-government suicide prevention work across NSW. This was prepared in partnership with key stakeholders including people with lived experience of suicidal distress and its impact
- 2022 – Community Wellbeing Survey regarding loneliness in NSW. The survey results indicated that, of the people who experienced loneliness, those with mental health challenges and younger people were more likely to feel lonely
- 2022 – 13 further Living Well Indicators were added including measures for loneliness, participation in social and community groups, and parental mental health
- 2022 – Stigma in rural NSW project, in which the Commission ran workshops in rural areas across NSW to learn about how stigma manifests in rural areas, and designed

anti-stigma media resources with community input, making them available to the community

- November 2022 – Reporting on mental health and wellbeing in Regional NSW was released, following consultations with regional communities, which aided the Commission’s understanding of the unique needs of regional and remote NSW. The report found that prevention and early intervention was a high priority for regional NSW, where they had limited access to affordable mental health services<sup>22</sup>
- 2022–2023 – a further 23 Living Well Indicators were added
- 2023 – community consultations across NSW were undertaken, in relation to the Commission’s work in this period
- 2023 – Living Well in Focus 2020–2024: Mid-term Progress Report
- September 2023 – the Commission submitted its NDIS Submission, for the review of the NDIS conducted by the National Disability Insurance Agency
- September 2023 – The Parliamentary Inquiry into the accessibility and appropriate delivery of outpatient and community mental health care in NSW
- October 2023 – Submissions to The Special Commission of Inquiry into Healthcare Funding.

The Commission was asked to contribute a list of its key achievements since the 2017 Review, which can be found at **Appendix 3**.

## Key Discussion Topics

### 1. Is the Commission fulfilling its purpose of monitoring, reviewing and improving the mental health and wellbeing of the people of NSW?

In the period from 2018 to date, the Commission has undertaken many activities, including the development of Living Well in Focus and new Living Well Indicators, aiming to improve the mental health and wellbeing of the people of NSW (refer to pp. 13–15, above).

Since the release of Living Well in Focus in 2020, the Commission has undertaken two reviews of the plan, and developed a Monitoring and Reporting Framework (refer to pp. 10–11, above). The Commission also uses the Living Well Indicators to track mental health and wellbeing over time. Report 2, released in 2023, indicates that seven of the 24 actions in Living Well in Focus have been achieved, nine are being progressed, and eight have more to do<sup>23</sup>.

#### Consultation Questions

- How could the Commission improve the way it monitors and reviews the system?
- What are the benefits of, and/or limitations with, how the Commission conducts its monitoring and reviewing functions, with regard to its key objectives?
- What improvements could be attributed to the work of the Commission? If none, what barriers may be affecting the Commission’s ability to drive reform and/or improvement?



## 2. Is the Commission targeting and achieving the system change that is necessary?

The Act makes clear, in its governing principles, that an effective mental health system requires:

- *“a co-ordinated and integrated approach across all levels of government and the non-government sector, including in the areas of health, housing, employment, education and justice, and*
- *communication and collaboration between people who have a mental illness and their families and carers, providers of mental health services and the whole community.” (Act s 3A(e)(i)-(ii))*

In Australia, one in five Australians experience one or more mental health episodes in their lifetime<sup>24</sup>. Mental health challenges contribute significantly to the burden of disease, causing 15% of all burden, only 2% lower than cancers which cause the highest burden in Australia. Burden of disease measures the impact of diseases and injuries on a population, in a summary measure of ‘disability-adjusted life years’ (DALY), reflecting the years of healthy life lost from illness and death<sup>25</sup>.

### *Mental health in NSW*

Between 2020 and 2022, of the 6.3 million people aged between 16 to 85 years in NSW, 40.5% (2.5 million people) had a mental disorder at some time in their life, 19.5% (1.2 million people) had a mental disorder in the preceding 12-month period, while 15.4% suffered from an anxiety disorder in the same period<sup>26</sup>.

In 2021, 16.9% of adults reported experiencing high to very high psychological distress, almost doubling since 2013<sup>27</sup>. Suicide rates for 2021 indicate 7.6 deaths per 100,000 in the Greater Sydney area, and 16.4 deaths per 100,000 in rural and regional NSW. Further, for rural and regional areas, less than 1 in 4 residents have good access to services, compared to 1 in 3 city residents having good access<sup>28</sup>.

NSW Government spending on mental health-related services has ranged from 5% to 5.1% of total government health expenditure, in the period from 2014 to 2019. In 2020, there was a decrease of this measure, to 4.9%<sup>29</sup>.

Further, in comparison to any other Australian state or territory, NSW invests a smaller proportion of government funding into community-based mental health services, than that invested in hospital-based care<sup>30</sup>. From 2020 to 2021, 43.8% of NSW Government recurrent mental health expenditure was spent on community-based care, while 51.7% was spent on admitted-patient hospital services, and 4.5% was indirect expenditure, compared to the national total for the same period, where 51.4% was spent on community-based care, 42.8% on admitted-patient hospital services, and 5.8% was indirect expenditure<sup>31</sup>. This results in a significant gap in NSW, larger than the national gap, for people who are not ‘unwell enough’ for hospital admission, but cannot access other mental health care due to financial cost,





long waiting lists, or geographical barriers to access<sup>32</sup>. In the period from 2013 to 2018, mental health-related emergency department presentations grew by 18% in NSW<sup>33</sup>.

Since 2012, the mental health landscape in NSW has undergone significant change influenced by many factors. Some of these factors include a shift in the profile of First Nations people, an increasing population of people who are culturally and linguistically diverse, the changing profile of people with gender diversity, the impact of social media, and the impact of the COVID-19 pandemic on the mental health and wellbeing of all communities. The 2018 changes to the Act, following the 2017 Review, included acknowledgment of young people and gender diverse communities (in addition to the communities already recognised in the original legislation), however, ongoing adaptation of mental health services and support systems is critical to address the continually evolving landscape of mental health.

The complicated and unique nature of mental health, the confluence of issues such as co-existing alcohol and other drug issues, stigma, discrimination, and human rights, in combination with the increasing demand for mental health services, and budget constraints, has created a complex policy environment in NSW.

#### *What is meant by system change*

System change can be defined in many different ways, and its meaning may not be consistently agreed amongst stakeholders. In the 2011 Second Reading Speech for the introduction of the Act, the NSW Minister for Mental Health at that time, Mr Kevin Humphries, stated “... people who have a mental illness, wherever they live, should have access to the best possible mental health care and support. They should also be treated with respect and dignity as should their families and carers. It is of the utmost importance that mental health systems have a philosophy of recovery as is understood in the mental health sector. This means that people with mental illness move past their illness to make decisions about their lives and to lead meaningful lives in the community”. Mr Humphries went on to say, in relation to the Commission, “... the community wants a commission that takes a holistic approach to addressing the needs of people with mental illness across government and whole of life”, and “At the centre of this commitment was our pledge to establish a Mental Health Commission to drive a more accountable and efficient mental health system and, most importantly, to enhance the wellbeing and mental health of the people of this State”<sup>34</sup>.

The above statements provide a signpost in relation to the systemic change that was intended by the introduction of the Act and establishment of the Commission.

#### *Integrated care*

*“Integration occurs when there is a common purpose, joint governance and accountability, joint planning, co-commissioning of services, co-location of integrated and interoperable services with digital mental health services, and no exclusion criteria. In addition, supporting people with lived experience with their diverse needs requires one overarching client care*



plan underpinned by one client information management system and a systematic collection of standard outcome measures”<sup>35</sup>.

Mental health is influenced by, and impacts upon, a range of factors beyond health care. Availability of agency and community network support services like employment, education, housing, care for communities, and justice services, is critical to ensuring that people can access sustainable, continuing care.

A whole-of-government approach facilitates integrated care<sup>36</sup>. Following the 2017 Review, the Commission committed to taking a whole-of-government approach to mental health in NSW<sup>37</sup>. To this end, in 2019 the Commission consulted with government agencies to develop a [Government Engagement Strategy](#), explaining the way it will work with stakeholders (for further detail, refer to p. 13, above).

#### Consultation Questions

- Do you think the Commission has been effective in bringing about system change? Why/why not?
  - If so, what has worked well?
  - If not, what barriers have been apparent, and/or what enabling powers are needed for the Commission to be more effective? *(See Key Discussion Topic 6 for further discussion)*
- How has the Commission collaborated with stakeholders (government and non-government) to inform its views?
- What communication and collaboration approaches have worked well and/or what could be improved?

### 3. Has the Commission exercised its functions effectively?

In exercising its functions, the Commission is to:

- Focus on systemic mental health challenges
- Take into account co-morbid issues associated with mental health challenges, such as drug and alcohol use and disability
- Take into account issues related to the interaction between people who have a mental health challenge and the criminal justice system
- Engage and consult with, and take into account the particular views of:
  - (i) people who have a mental health challenge and their families and carers
  - (ii) the government and non-government sector
  - (iii) the whole community
- Take into account the particular views and needs of different sections of the community, including Aboriginal communities, culturally and linguistically diverse communities, gay, lesbian, bisexual, transgender and intersex communities, young people, and regional and remote communities
- Fulfill the objects of the Act in accordance with the governing principles (Act s 12(2)).



To properly take into account the diverse range of issues listed above, an efficient and effective whole-of-government approach is critical.

#### *The Commission's current processes*

The Commission's processes include strategic planning, and the implementation, monitoring, reviewing and updating of plans and other initiatives. The Commission utilises its Monitoring and Reporting Framework (refer to p. 11, above), and the Living Well Indicators to monitor and review mental health and wellbeing in NSW, and also to '*measure the collective efforts of government to improve people's mental health and wellbeing*'<sup>38</sup>.

The Commission's Engagement Framework and Charter, and Government Engagement Strategy, govern the way the Commission is to engage with stakeholders (refer to p. 13, above).

#### *The Commission's activities*

The Commission's activities are set out above (refer to pp. 13–15, above), and Report 2 indicates some progress has been made under Living Well in Focus, with seven out of 24 actions being 'achieved'. The Commission has also been involved with a number of community consultations and initiatives, has been active in making submissions for reform, and has engaged in community education programs. It is noteworthy that in the list of achievements submitted by the Commission there is no evidence of it utilising the power under s14 to instigate reports in relation to a NSW Government agency, make recommendations, and require a response in writing to the Minister to those recommendations from the relevant NSW Government agency head.

#### *Funding*

One of the Commission's roles is to provide NSW Health with accurate information in relation to funding required to support mental health objectives, and advocate to ensure sufficient mental health funding is received. The NSW Health mental health budget is approximately \$2 billion<sup>39</sup>.

There was a significant decrease in the Commission's budget in the financial year ending June 2023, compared to the year prior, despite the Commission's staffing expenses remaining steady across that two-year period. In the financial year ending June 2023, the Commission had budgeted revenue of \$8.6 million, but only received \$8.295 million, the deficit largely due to receiving grants that were lower than expected from NSW Health. The Commission expended \$5 million on staffing, with the remainder of its budget allocated to projects and legacy NGO grants<sup>40</sup>. By contrast, in the financial year ending June 2022, the Commission received its full budgeted revenue of \$9.83 million, significantly higher than that received in 2023, with similar staffing expenditure at \$4.97m<sup>41</sup>, suggesting the additional revenue was for specific activity that ceased at the end of the 2022 financial year.



In terms of investment, although NSW is the most populous state, in the period from 2020 to 2023 it has invested less per capita on mental health services, than all other states and territories in Australia<sup>42</sup>. In the period from 2016 to 2021, the annual NSW per capita spending on mental health services increased by \$17.76, to \$267.85, while Victoria's per capita spending increased by \$63.70, to \$298.57, acknowledging that Victoria's Royal Commission into mental health was a stimulus towards the end of this period<sup>43</sup>.

In the period from 2016 to 2021, the total mental health expenditure for NSW increased by 7.92%, to \$2.17 billion, compared to Victoria which saw its mental health expenditure increase by 32%, to \$1.96 billion<sup>44</sup>. In NSW, the total mental health expenditure represents about 5% of the overall healthcare funding for NSW<sup>45</sup>, notwithstanding the increasing demand for services (refer to pp. 16–17, above).

### *The Commission's workforce*

The 2017 Review found the Commission needed to review its workforce, and ensure its work is supported by a balance of expertise, lived experience, and appropriate staff capabilities across its team<sup>46</sup>.

In response to this recommendation, the Commission advised it had already begun reviewing its workforce profile, as recommended<sup>47</sup>. It is not clear what steps the Commission had taken at that time.

Since the 2017 Review, the Commission has:

- Included designated lived-experience positions in its staffing<sup>48</sup>
- Released the 2023 Charter of Governance (refer to p. 6, above)
- Developed its Strategic Plan 2023–2028 (refer to p. 12, above).

As a statutory agency, the Commission also has key responsibilities and accountability in relation to the internal governance of its workforce, under the [Government Sector Employment Act 2013 \(NSW\)](#) (s 7), including:

- Promoting ethical behaviour and integrity within the Commission
- Managing resources effectively
- Ensuring quality services are delivered to the public
- Fostering a positive workplace culture, and promoting diversity and inclusion.

### **Consultation Questions**

- Has the Commission been effective in advocating for mental health in the budgeting process?
- Has the Commission's access to resources impacted the performance of its functions?
- How could the Commission's processes and operating approach be improved?



#### 4. Is the Commission still required, in order to achieve the objectives within the Act?

The earlier sections of this paper detail the Commission's activities and achievements. In summary, the Commission has implemented several changes to the mental health system in NSW, including:

- Increasing focus on community-based mental health services
- Implementing strategies to reduce stigma surrounding mental health and promote mental health awareness
- Promoting awareness about prevention and early intervention in mental health
- Introducing initiatives to support the mental health needs of diverse, remote, and other priority populations.

However, the statistics show a continued decline in mental health in NSW, with presentations continuing to escalate (refer to p. 16, above).

#### *Duplication*

Looking at the activity of the Commission, there is considerable overlap with the activity of other bodies, including for example:

- The NMHC – both were established to contribute to the review and reform of the mental health system, both develop and implement strategic plans and initiatives, and much of what the Commission does is heavily influenced by strategies and initiatives that originate with the NMHC, for example The roadmap for national mental health strategy reform 2012–2022, which includes the same objectives as Living Well, and the Fifth National Mental Health and Suicide Prevention Plan, which underpins the Commission's Shifting the Landscape for Suicide Prevention in NSW<sup>49</sup>
- The NSW Health, Mental Health Branch within the Ministry of Health – with responsibility for developing, managing and coordinating policy, strategy and programming in mental health in NSW, and implementing plans and programs in partnership with stakeholders, there is substantial overlap between the work of NSW Health and the work of the Commission (although the Commission no longer has a policy development function)
- The NSW Bureau of Health Information (BHI) – produces independent reports on the performance of the public healthcare system in NSW, comparable to the Living Well Indicators, with similar issues and similar results. For example, in 2019 the BHI produced a report on 'People's uses and experiences of mental health care in NSW', including statistics on people's satisfaction with visits to general practitioners, access to mental healthcare services, and emergency department presentations<sup>50</sup>, all of which contain similar information to the Living Well Indicators published on the Commission's website in relation to these issues<sup>51</sup>.

It is also noted that, subsequent to review, the other mental health commissions in this country have undergone substantial changes to their remit and intent, in response to either duplication or amended policy focus.

### Consultation Questions

- Is there sufficient duplication between the activities of the Commission and other bodies, to consider the Commission may no longer be required in order to achieve the objectives within the Act?
- Does the community receive sufficient value for money from the Commission as an investment of government?

### 5. Does the Commission require new functions or powers to achieve the Act's objectives?

As an alternative to Key Discussion Topic 4, above, if the Commission has not completed its task and is still required, does it need new functions or powers in order to effectively do its job? Set out below are some of the potential benefits and obstacles associated with three potential new functions or powers for the Commission:

- Holding the NSW Health mental health budget allocation (approximately \$2 billion<sup>52</sup>) and commissioning services from Local Health Districts and NGOs
- Receiving and investigating complaints relating to the experience of individuals in the NSW mental health system
- The ability to compel evidence from NSW government agencies and/or the mental health sector (the Commission's current review and reporting processes allow only for voluntary compliance by NSW government agencies).

#### *Holding the NSW Health mental health budget allocation and commissioning services*

##### Potential benefits

- Expertise – the Commission has the targeted mental health expertise to inform decisions about NSW Health's mental health budget allocations and the services to be prioritised, noting that NSW Health's current mental health budget does not account for all mental health services delivered by government
- Autonomy – having its own budget would allow the Commission to have more control over spending in mental health, and reduce the risk of diversion of funds
- Efficiency – the Commission could potentially streamline its financial operations and optimise resource allocation to improve efficiency and outcomes for mental health.

##### Potential obstacles

- Duplication of functions – the Commission would be duplicating what NSW Health currently does
- Conflict of interest – a conflict of interest arises because the Commission is also responsible for monitoring and reporting on the mental health and wellbeing of the people of NSW, and conducting systemic reviews of services and programs, and so the Commission would, in effect, be monitoring and reporting on its own performance



- Coordination challenges – holding a separate budget may lead to coordination challenges with other government agencies, potentially hindering collaboration and efficiency.

### *Receiving and investigating complaints*

#### Potential benefits

- Independent review – as the Commission is independent, it could provide impartial and objective investigations into complaints, to provide fair treatment and outcomes
- Expertise – specialised knowledge or expertise within the Commission may facilitate effective and thorough investigations
- Systemic improvement – by investigating complaints, the Commission can identify systemic issues and recommend improvements to prevent similar problems in the future.

#### Potential obstacles

- Increased workload – may require a growth in staff and expenditure
- Duplication – there is the potential for duplication between the Commission and existing complaints-handling bodies such as the NSW Health Care Complaints Commission, the Health Professional Councils Authority, and existing NSW Health complaints processes
- Legal challenges – conducting investigations may involve issues of legal compliance and procedural fairness, leading to legal challenges and requiring expert legal opinion and significant costs
- Conflict of interest – there is the potential for conflicts of interest to arise, if the Commission was to investigate complaints relating to people or entities it oversees or works closely with.

### *The ability to compel evidence from NSW government agencies and/or the mental health sector*

#### Potential benefits

- Strengthened investigation capabilities – enabling the Commission to gather information and evidence, to enhance its monitoring, reviewing and reporting functions
- Improved accountability – compelling evidence can promote transparency and accountability within the Commission, as it can ensure that all relevant information is provided for decision-making processes
- Stronger enforcement capabilities and increased compliance – the power to take appropriate action against non-compliance or misconduct may encourage compliance, in turn streamlining the information-gathering process, and giving greater access to relevant information.



#### Potential obstacles

- Potential privacy concerns – for individuals or organisations compelled to produce confidential or sensitive information
- Legal challenges – the process of compelling evidence may involve legal complexities and challenges, such as the question of admissibility in legal proceedings
- Resource-intensive – compelling evidence can require significant amounts of time, effort and resources to gather and thoroughly analyse information produced
- Stakeholder relationships – the ability to compel evidence may build mistrust between agencies, and reduce voluntary collaboration with the Commission on strategic objectives.
- Duplication – of the work of existing bodies such as the NSW Ombudsman or NSW Auditor-General.

#### Consultation Questions

- What new functions or powers, if any, would allow the Commission to fulfill its purpose?
- What safeguards would be required in relation to any new functions or powers?
- Are there partnership arrangements with other NSW or national institutions or agencies that could enhance the Commission's capacity to fulfill its functions under the Act.
- Considering the 2018 changes to the Commission's functions (refer to pp. 8–9, above), following the 2017 Review, were these beneficial, detrimental, or of no consequence to the Commission's ability to fulfill its purpose?

## 6. Should the Commission work differently with other state and national Commissions?

Integrated care is difficult to achieve within the federal system in Australia. Different levels of government fund different aspects of mental health care, there is a lack of joint planning, and minimal co-commissioning between the Australian Government and the various states and territories. To address these issues, and also the duplication that exists between the Commission and the NMHC, it is beneficial to explore the capacity of the NSW Government to impact the relationship between the Commission, the NMHC, and other state and territory commissions across Australia, and the relative benefits of advocating for a national model (National Model) through intergovernmental processes.

A National Model may make integrated care more achievable by streamlining policy development and implementation, and reducing service gaps and inconsistencies between (and within) public, private and non-government services across Australia. It is also noted that the Australian Government's Fifth National Mental Health and Suicide Prevention Plan expired in 2022, and currently has not been replaced with a contemporary national plan. A National Model may assist in maintaining an ongoing cycle of national planning.



The [National Health Reform Act 2011 \(NSW\)](#) (NHR Act) provides a potential governance structure for a National Model. The NHR Act establishes a number of existing national bodies, with governance shared across jurisdictions, operating within the parameters of agreed and legislated functions and powers. An example is:

- The Australian Commission on Safety and Quality in Health Care (ACSQHC) (NHR Act Ch 2), which:
  - Has powers to lead and coordinate improvements in quality and safety across Australia<sup>53</sup>
  - Is independent (NHR Act s 16)
  - Is jointly funded by all governments (Australian, states and territories) on a cost-sharing basis, and its annual program of work is developed in consultation with all governments<sup>54</sup>
  - Has very broad functions (NHR Act s 9), and ‘has power to do all things necessary or convenient to be done for or in connection with the performance of its functions’ (NHR Act s 13)
  - Is overseen by the ACSQHC Board (established by NHR Act s 17), which:
    - Has broad powers to fulfill its duty to govern the ACSQHC and ensure the proper and efficient performance of the ACSQHC’s functions (NHR Act s 18)
    - Has strict requirements for membership, including substantial expertise and significant standing in one of the prescribed specialised fields, to ensure an appropriate workforce balance. The Minister for Health consults with each state and territory prior to appointing board members (NHR Act s 20)
  - Is supported in its work by an Inter-Jurisdictional Committee, constituted by appropriately qualified, senior managers from all Australian jurisdictions (NHR Act s 50).

A governance model could be adopted for a National Model for mental health, involving:

- Establishing a single consensus mental health commission (SC Commission) in the federal jurisdiction
- Each state and territory, along with the Australian Government, nominating representation to a board responsible for advising (and possibly overseeing) the SC Commission, that board to be constituted by members with appropriate, substantial expertise and significant experience
- Legislating to provide for a set of functions, and system of checks and balances, such that the SC Commission is independent and responsible for leading and coordinating policy reform, and monitoring and improving the mental health system across Australia, advised/overseen by the board.

The Productivity Commission in its 2020 Inquiry Report on mental health<sup>55</sup>, articulated the need for an expanded remit for a national mental health commission, and noted the existing patchwork of commissions across Australia. Similarly, Mental Health Australia, following consultation with its own broad-ranging constituency, made a submission on the



negotiation of the 2021 Intergovernmental Agreement on mental health<sup>56</sup>, in which it argued for a single national commission with wide-ranging powers.

The Australian Government has responsibility for mental health primary care funding, Medicare Benefit Scheme (MBS) items for psychiatry, general practice, psychology and social work, workforce development initiatives (particularly university training places in the clinical professions), and the NDIS. There are also shared responsibilities for psychosocial disability support, research, and data collection. Both the AIHW and the Productivity Commission provide national annual reports on mental health, within frameworks overseen by the relevant Federal Minister. Aligning all these powers with state powers would substantially enhance the capacity to improve service delivery and population-level mental health approaches in Australia.

The NSW Government does not have the power to establish a National Model, and would need to advocate to other jurisdictions on the benefits of such an approach, if it determined it was a more effective mechanism for achieving the objectives within the Act. Nonetheless, given that many of the levers and mechanisms for achieving system change and improving the mental health and wellbeing of the people of NSW lie outside the NSW jurisdiction, it is a line of inquiry worthy of consideration.

#### **Consultation Questions**

- What are the potential benefits and obstacles of establishing a National Model?
- What other options are available to achieve an integrated mental healthcare system for NSW?

### **7. Is the Health portfolio the right place for the Commission to fulfill its whole-of-government remit?**

The Commission's role includes:

- Focusing on systemic mental health challenges
- Taking into account co-morbid issues associated with mental health challenges, such as drug and alcohol use and disability
- Taking into account issues related to the interaction between people who have a mental health challenge and the criminal justice system.

There is a lot of activity in other government agencies related to mental health, for example in the NSW Housing, Communities and Justice (DCJ), and Education portfolios. A whole-of-government approach is fundamental to adequately address the complex relationship between these diverse government agencies, to ensure people can access sustainable, continuing care. This requires intensive coordination and integration in order to facilitate joint policy development, strategic planning, and joint implementation of policies.

The following issues require a coordinated response across the Housing, DCJ and Education portfolios:

- People with mental health disorders being overrepresented in the criminal justice system, three to nine times more likely to be in prison than people without mental health challenges, and also overrepresented as victims of crime<sup>57</sup>
- Young people with a mental health disorder and/or cognitive impairment being six times more likely to be in prison than youth without mental health challenges<sup>58</sup>
- Up to 65% of people living with mental health challenges reoffending within two years of being released from prison<sup>59</sup>
- Forensic patients, those who have been found unfit to be tried, or not guilty due to mental health challenges, being placed in correctional facilities, where they cannot receive the care they need, because the system provides no appropriate alternative
- The complex interaction between mental health challenges, intellectual disability, disrupted family backgrounds, abuse, drugs and alcohol, and lack of suitable housing, and the services that address these needs currently operating independently of one another.

Whole-of-government objectives:

- Ensuring an appropriate distribution of resources and activity to meet the overarching objective of improving mental health and wellbeing
- Educating communities about prevention and early intervention
- Improving workforce competencies in all agencies, so they have the appropriate skills to work together effectively
- Ensuring mental health policy has input from, and caters for, people with lived experience and across all population groups in the community
- Ensuring solutions in mental health are evidence-based and recovery-oriented
- Creating more affordable housing, to reduce the impact of housing stress on mental health
- Diverting more people with mental health challenges out of the criminal justice system and into services that meet their needs
- Developing education programs for young people and adults with mental health challenges who have slipped through the cracks in educational settings
- Addressing and reducing the stigmatisation of mental health, particularly in rural and remote areas
- Determining the causes of behaviour of people in the criminal justice system with mental health challenges and/or cognitive impairment.

*A potential model*

Historically, when an area of policy endeavour requires co-ordination across government, a central agency portfolio, such as the Cabinet Office, becomes involved in progressing government initiatives as these agencies can be in a better position to facilitate coordination and collaboration with other government portfolios.

The Cabinet Office supports the Premier and Cabinet in their decision-making processes and policy development, leading and coordinating strategy and policy across government, and providing expert independent policy and governance advice to the Premier's Department<sup>60</sup>.

An example of a central agency portfolio successfully coordinating a whole-of-government response, is the Office of Drug Policy established following the NSW Drug Summit in 1999. The Office of Drug Policy was established to coordinate drug policy across Government, and to monitor and facilitate progress in implementing the Government Plan of Action. Its key functions included overseeing and driving the whole-of-government response, and advising on evaluation of the programs being implemented. Importantly, the Office of Drug Policy was provided with seconded staff from NSW Police, the Attorney-General's Department, and the departments of Health and Education, to provide it with relevant expert input<sup>61</sup>.

The 2020 Special Commission of Inquiry into crystal methamphetamine and other amphetamine-type stimulants (Ice Inquiry) recommended adopting the same model, including<sup>62</sup>:

- The appointment of a new Minister with a drug and alcohol portfolio, to oversee and coordinate the Ice Inquiry's recommendations, including the development of an action plan
- The establishment of a unit in the Cabinet Office (at that time the Department of Premier and Cabinet) to lead the work of the Minister
- The establishment of a Ministerial Advisory Group, constituted by experts, representatives of priority populations, and individuals with lived experience, to support the new Minister.

It should be noted, however, the NSW Government has not determined to apply such a model to drug policy.

A similar mental health entity could be established in the Cabinet Office, to lead the work of a Minister with a mental health portfolio, and, as occurred with the outcomes of the 1999 Drug Summit, could be supported by a Ministerial advisory group comprising people with lived experience, people from priority populations and communities, and people from relevant sectors, for example Health, Education, DCJ and Housing, to provide the appropriate expertise.

It should be noted that decisions regarding the machinery of changes in government lie with the Premier, and, should there be merit in advocating for an approach as set out in the potential model, above, it would need to be considered within the broader context of all government policy activity.

#### **Consultation Questions**

- In what ways could the Commission be given the functions, powers and resources it needs to achieve its whole-of-government remit?
- What relationship to other government agencies best assists the Commission to achieve its objectives under the Act?



## How to Make a submission

The Reviewers welcome all written submissions in response to this discussion paper, and within the scope of the Terms of Reference (Appendix 1). The instructions for lodging submissions are set out below.

**Closing date for submissions:** 5pm on 21 June 2024

**Format of submissions:** submissions must be in writing

**Method of submitting:** email submissions to [moh-mhc-review@health.nsw.gov.au](mailto:moh-mhc-review@health.nsw.gov.au)

**For further information:** NSW Health website [Review of the Mental Health Commission \(nsw.gov.au\)](https://www.nsw.gov.au/health)

## List of Appendices

**Appendix 1** – Review of the Mental Health Commission of NSW – Terms of Reference

**Appendix 2** – Table of Recommendations **from the 2017 Review**

**Appendix 3** – Submission from NSW Mental Health Commission on agency Achievements since last review

## **APPENDIX 1 – Review of the Mental Health Commission of New South Wales Terms of Reference**

### **Background**

- The Minister for Mental Health (Minister), the Hon Rose Jackson, has requested a review of the Mental Health Commission of NSW (Commission), pursuant to section 20 of the *Mental Health Commission Act 2012* (NSW) (Act).
- The Commission’s purpose is to monitor, review and improve the mental health and wellbeing of the people of NSW (section 3).
- The Act (section 20) requires a review of the Commission be undertaken at least once every 5 years after the first review, which was completed in 2018.
- The review will report to the Minister, and be tabled in Parliament, as required by the Act.
- This review meets the statutory requirements under section 20 of the Act.

### **Purpose**

- The review will:
  - Examine and assess the work of the Commission, taking into account its functions and the principles governing its work, and make recommendations for functional improvement, if required, taking into account the enabling power of the Act
  - Review the policy objectives of the Act to determine whether they remain valid, and whether the terms of the Act remain appropriate for securing those objectives.

### **Terms of the review**

#### *Part A – Review of the work of the Commission*

To review the work of the Commission, taking into account its functions and the principles governing its work, in relation to each of the elements set out below.

- A1. The extent to which the Commission has met its functions as outlined in section 12(1) of the Act.
- A2. In exercising its functions, the extent to which the Commission has:
  - I. Focused on systemic mental health issues
  - II. Taken into account the other specific requirements of section 12(2) of the Act.
- A3. The extent to which the Commission has exercised its functions having regard to the governing principles as outlined in section 3A of the Act.

#### *Part B – Future state recommendations*

To make recommendations for the future state of the Commission.

- B1. To consider any necessary functional improvements, or potential changes, to the Commission, and make recommendations regarding the future state of the Commission, including:
  - I. The purpose and role of the Commission
  - II. The functions and powers of the Commission

- III. The principles governing the work of the Commission
- IV. The priorities for the Commission's work
- V. The governance structure of the Commission
- VI. Whether the model for the Commission as established under the Act is appropriate for its whole-of-government role and remit, or whether an alternative model would allow the Commission to be more effective
- VII. Whether the Commission should work differently with other state and national commissions
- VIII. Any other matters relating to the function and performance of the Commission the reviewers feel are pertinent to raise consistent with the intent of the statutory review.

### *Part C – Review of the Act*

To review the Act in order to assess the validity of its policy objectives, and whether its terms remain appropriate for securing those objectives, in the context of the work of the Commission.

- C1. To consider the suitability of the objectives and terms of the Act, including:
- I. Whether the policy objectives set out in section 3 remain valid:
    - a. To promote the governing principles
    - b. To require the Commission and government agencies in mental health to work cooperatively in the exercise of their respective functions
  - II. Whether the objectives set out in section 3 should be amended
  - III. Whether the terms of the Act remain appropriate for securing the objectives
  - IV. Whether it is necessary to make any amendments to the Act, in particular:
    - a. Whether section 12 gives the Commission the functions and powers it requires to develop and implement an effective whole-of-government approach to improving mental health in NSW
    - b. Whether section 3A appropriately sets out the guiding principles for the Commission
    - c. Whether section 10 adequately provides for the appropriate level of competency of the Commission's workforce, to enable it to fulfill its purpose
  - V. Whether the Act should be repealed.

### **Governance**

The review will be undertaken by Dr Richard Matthews AM and Mr David McGrath, reporting to the Minister.

### **Methodology**

The methodology for the review will include:

- A desktop review and analysis of the Commission's work
- A call for written submissions, and analysis of all submissions received
- Stakeholder consultations, and interviews with key stakeholders
- Reporting.

### **Timeframe**

The report on the Review will be submitted to the Minister by 31<sup>st</sup> August 2024.

**Appendix 2 – Table of Recommendations from the 2017 Review**

Recommendation	Proposed Legislative Amendment	Government Response	Evidence of implementation
<p>1. That the Objects of the Act (section 3) be amended to focus the work of the Commission on: monitoring, reviewing and improving the mental health and wellbeing of the people of New South Wales.</p>	<p>Yes</p>	<p>Supported. The Government supports the review findings that the purpose for which the Commission was established needs to be more tightly defined, particularly given the strategic and operational context in which the Commission now operates. The Government supports the review’s recommendation that the Object of the Act be amended to focus the Commission’s purpose on monitoring, reviewing and improving the mental health and wellbeing of the people of NSW.</p>	<p>Achieved.</p> <p><b>2016</b> Object of Act: “The object of this Act is to establish the Mental Health Commission of New South Wales for the purpose of monitoring, reviewing and improving the mental health system and the mental health and well-being of the people of New South Wales.”</p> <p><b>2018</b> Objects of Act: “The objects of this Act are: (a) to establish the Mental Health Commission of New South Wales for the purpose of monitoring, reviewing and improving the mental health and well-being of the people of New South Wales, and (b) to promote the governing principles, and (c) to require the Commission and public sector agencies that provide mental health services or are involved in supporting people who have a mental illness to work co-operatively in the exercise of their respective functions.”</p>
<p>2. That the Mental Health Commission of New South Wales be renamed the Mental Health and Wellbeing Commission of New South Wales, with amendment to section 1 of the Act to reflect this.</p>	<p>Yes</p>	<p>Noted.</p>	<p>The name of the Mental Health Commission of NSW (Commission) has remained the same. The Commission intends to “continue to focus on the wellbeing of people with lived experience of mental health issues, their families and carers, and the whole community.”<sup>1</sup></p>

<sup>1</sup> [https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response\\_to\\_review\\_recommendations\\_web.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response_to_review_recommendations_web.pdf)



<p>3. That the Commission's functions be rearticulated and refocused, providing clarity on the role and functions of the Commission in the broader system. The Commission should focus on three primary functions: strategic planning, systemic reviews and advocacy, with other functions to remain in the Act but considered enabling functions. Section 12(1) of the Act to be amended such that:</p> <p>i. s12(1)(a) be amended to remove historic reference to developing a draft strategic plan, to provide for an ongoing role for the Commission in strategic planning and in implementation of the strategic plan, or other strategic priorities that may be identified by Government.</p> <p>ii. s12(1)(b) remain without amendment. The Commission should also establish a regular reporting cycle, against key reform indicators.</p> <p>iii. s12(1)(c) be amended so the current section (c) is revised to: review, evaluate,</p>	<p>Yes</p>	<p>Supported. The Government supports the review findings that the functions of the Commission are too broad to effectively focus the Commission's work. To strengthen the impact of the work of the Commission on improving the mental health and wellbeing of the people of NSW, the Government supports proposed amendments to the Commission's functions in line with the review's recommendations.</p>	<p>i. Achieved. S12(1)(a) wording amended from <i>"to prepare, in consultation with providers of mental health and related services and government agencies, a draft strategic plan for the mental health system in New South Wales for submission to the Minister for approval"</i> to <i>"to prepare strategic plans relating to mental health when directed to do so by the Minister"</i>.</p> <p>ii. S12(1)(b) wording was amended from <i>"to monitor and report on the implementation of the strategic plan"</i> to <i>"to monitor and report on the implementation of strategic plans prepared by the Commission and approved by the Minister"</i>. A regular reporting cycle was not stipulated in the legislative amendment, however in the Commission's response to review document<sup>2</sup> they stipulated they intend on "setting up a regular reporting cycle" "for monitoring the effectiveness and outcomes of mental health reform in NSW".</p> <p><i>After releasing Living Well in Focus, there was agreement by the NSW Government to a new reporting cycle to the Mental Health Commission, involving three reports:</i></p> <ul style="list-style-type: none"> <li><i>Report 1 - a brief and predominantly descriptive "stocktaking" report - July 2021</i></li> <li><i>Report 2 - a mid-term progress report on the implementation of the actions - mid-2023.</i></li> <li><i>Report 3 – the final report outlining outcomes and reflecting back over the full 2020-2024 implementation period – 2025.</i></li> </ul> <p><i>Government agencies' input to Report 2 and the Commission's mid-term progress report can be found on the NSW Mental Health Commission's website.</i></p>
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<sup>2</sup> [https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response\\_to\\_review\\_recommendations\\_web.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response_to_review_recommendations_web.pdf)

<p>report and advise on the mental health and wellbeing of the people of New South Wales, including systemic reviews of programs and services provided to people who have a mental illness, and other issues affecting people who have a mental illness.</p> <p>iv. s12(1) (f, g, h) be amended so these functions continue, but that they be set out in a different order to flow from whole-of community education to specific issues (i.e. s12(1)(h, f, g)).</p> <p>v. s12(1)(e) be amended to remove policy development from the Act. In addition, the Commission should consider the functions of commissioning research, innovation, as an enabling function. The enabling functions should be listed last in the revised Act.</p> <p>vi. s12(1)(d) remain without amendment, but the Commission should also consider this function an enabling function. The enabling functions should be listed last in the revised Act.</p>			<p>iii. Achieved. s12(1)(c) amended from “to review and evaluate, and report and advise on, mental health services and other services and programs provided to people who have a mental illness, and other issues affecting people who have a mental illness” to “to review and evaluate, and report and advise on, the mental health and well-being of the people of New South Wales including conducting systemic reviews of services and programs provided to people who have a mental illness and other issues affecting people who have a mental illness”.</p> <p>iv. Achieved. In s12(1), amendments were made so that (g) became (f), (h) became (g), (f) became (h).</p> <p>v. Achieved. Policy development was removed as a function from s12(1)(e). It is unclear whether the Commission considers this function to be merely an enabling function. However, this ‘enabling function’ remained in the same position within subsection 12(1), i.e. at s12(1)(e).</p> <p>vi. s12(1)(d) remained without amendment. It is unclear whether the Commission considers this function to be merely an enabling function. However, this ‘enabling function’ remained in the same position within subsection 12(1), i.e. at s12(1)(d).</p>
<p>4. That the Commission’s independence in relation the</p>	<p>Yes</p>	<p>Supported. The Government accepts this proposed</p>	<p>Achieved. Section 9 was amended from “The Commission is subject to the direction and control of the Minister, except in</p>

<p>preparation of reports should be retained; but as the Act pre-dates the adoption of Living Well by the Government, section 9 should be amended to remove the reference to the development of a strategic plan.</p>		<p>amendment, which removes the historic reference to the 'contents of a draft strategic plan'. The Strategic Plan has now been adopted by Government.</p>	<p><i>relation to the preparation and contents of the draft strategic plan or any other report prepared by the Commission" to "The Commission is subject to the direction and control of the Minister, except in relation to the preparation and contents of any plan or report prepared by the Commission".</i></p>
<p>5. That section 14 of the Act be amended to remove the historic reference to progress reports on the draft strategic plan (s14(1)(a)).</p>	<p>Yes</p>	<p>Supported. Government accepts amendments to remove the historic reference to the draft strategic plan (Living Well has now been adopted by Government).</p>	<p>Achieved.</p>
<p>6. That the Act be amended to require that if the Commission makes recommendation/s in a report pursuant to section 14 that relate to an agency, that agency must respond to the Minister tabling the report in writing within a reasonable period:</p> <p>i. detailing the steps it has taken, or plans to take, in relation to the recommendation; or</p> <p>ii. advising that it has decided not to take any action in relation to the recommendation.</p>	<p>Yes</p>	<p>Supported. The Government accepts the review's findings that the impact of the Commission's reporting function needs to be strengthened, and supports the requirement that relevant government agencies provide a response to any report that is prepared by the Commission and then tabled in Parliament by the Minister. 'A reasonable period' should be clearly delineated in the Act; subject to consultation with Government departments.</p>	<p>Section 14 was amended to include the following subsections:  <i>"(6) The head of a public sector agency to whom a report is given must provide a written response to the Minister within a reasonable time and no later than 6 months after the report is given.  (7) The response is to address any matters that the head has been requested to consider by the Commission.  (8) The head of a public sector agency must also provide a copy of the response to the Commission."</i></p> <p>A reasonable period was clearly delineated in this wording. Additionally, matter (i) of the recommendation is delineated in s14(5). S14(5) does not include any reference to an agency 'advising that it has decided not to take any action in relation to the recommendation' – therefore only (i) has been addressed in the revised Act and was achieved, whereas (ii) was not achieved.</p> <p>Please note that the mention of subsection (2)(b) is assumed to relate to matter (ii) of this recommendation (allowing an agency to advise that it has decided not to take any action in</p>

<p>If subsection (2)(b) applies, the agency must provide the reasons for its decision.</p>			<p>relation to a recommendation). The Act has not been revised to encompass this part of the recommendation.</p>
<p>7. That the Commission's role in whole-of-government mental health governance be strengthened, such that:</p> <p>i. the Commission be made a full member of the Mental Health Taskforce</p> <p>ii. Government and agencies invite the Commissioner to meet with other relevant whole-of-government committees to discuss whole-of-government priorities relating to mental health</p> <p>iii. the Commission work with government agencies to develop a whole-of-government engagement strategy between the Commission and government.</p>	<p>No</p>	<p>Supported. The Government accepts the review findings that the Commission's role in whole of government governance in relation to mental health can be strengthened, and supports the recommendations in this regard.</p>	<p>i. Achieved, the overarching governance model document shows the members of the Mental Health Taskforce to include: Health, DPC, Treasury, DCJ, Education, DPIE, DCS, and the NSW Mental Health Commission<sup>3</sup>. According to the Commission on their website, <i>"This has enabled the Commission to gain greater visibility, oversight and provided further insight into efforts made and progress towards mental health reform."</i></p> <p>ii. &amp; iii. Achieved. Evidence of intent to engage with other government agencies is demonstrated in the Government Engagement Strategy<sup>4</sup>.</p>
<p>8. That NSW Health and the Commission make publicly available these whole of government mental health governance mechanisms (as</p>	<p>No</p>	<p>Supported. To support stakeholder understanding of the operation of the Commission in the broader context, the Government will</p>	<p>Achieved. Governance documents are accessible via the Commission's website.</p>

<sup>3</sup> [https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-06/tab\\_a\\_-\\_nsw\\_mental\\_health\\_overarching\\_governance\\_strategy\\_for\\_website.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-06/tab_a_-_nsw_mental_health_overarching_governance_strategy_for_website.pdf)

<sup>4</sup> [https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/tab\\_b\\_-\\_government\\_engagement\\_strategy\\_final\\_report.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/tab_b_-_government_engagement_strategy_final_report.pdf)

appropriate) and related roles and responsibilities; with these to be communicated broadly to increase stakeholder awareness of the overarching system governance.		make publicly available, as appropriate, these governance mechanisms and related roles and responsibilities.	
9. That the Commission should strengthen efforts to enhance integration, coordination and collaboration across government and the broader system, promote a broad understanding of the mental health system, and to continue to communicate this to stakeholders.	No	Supported. Recognising that the integration of mental health across the health and social system is fundamental to sustained change, the Government supports the review's findings that the Commission should strengthen efforts by the Commission in this regard.	In their response to review, the Commission stated, " <i>The Commission will work with others to define what is meant by "integration, coordination and collaboration" and identify how this can be achieved at the service level</i> ". No evidence showing direct implementation of this recommendation beyond this statement could be found, however the response to recommendations 7 and 8 show some evidence of effort to enhance collaboration and communication.
10. That the Act be amended to:  i. move the principles to follow the Objects of the Act, to signify the overarching importance of these to the work of the Commission and government agencies  ii. move 'Cooperation between Commission and public sector agencies' from Miscellaneous provisions to follow the principles, to see that there is a closer alignment between these.	Yes	Supported. Government supports in principle amendments to enhance the way the Act is structured.	i. Achieved.  ii. Mention of cooperation was added in s3(c) " <i>to require the Commission and public sector agencies that provide mental health services or are involved in supporting people who have a mental illness to work co-operatively in the exercise of their respective functions</i> ". However, s16, 'Cooperation between Commission and public sector agencies', remains in the Miscellaneous provisions and was not moved to follow s3A, 'Governing Principles'.
11. That section 12(2)(d) be amended to require the Commission to engage, consult and consider the views	Yes	Supported. The Commission must ensure that it actively considers the views of those it is established to serve,	Achieved. Wording of s12(2)(d) changed from " <i>to engage and consult with...</i> " to " <i>to engage and consult with and to take into account the particular views of...</i> ".

<p>of the populations identified in the Act.</p>		<p>particularly people with a lived experience of mental illness and their families and carers. The Government supports amendments to strengthen the way that the Commission engages, consults and particularly that it considers the views of people with lived experience of mental illness, as well as the government and non-government sectors and the community.</p>	
<p>12. That the Commission's engagement with young people be strengthened, in that:</p> <p>i. the Commission co-design and implement appropriate strategies to engage young people (particularly those with lived experience of mental illness) and carers in its work, and advise the Minister for Mental Health on whether the Community Advisory Council appropriately includes the views of young people.</p> <p>ii. section 12(2)(e) be amended to include consideration of the needs of young people.</p>	<p>Yes</p>	<p>Supported. The Government accepts the review findings that the Commission needs to strengthen its engagement and work with young people, and supports the review recommendations in this regard.</p>	<p>i. The Commission stated that <i>"Embedding co-production more fully in our work is a commitment in the Commission's five year strategic plan Key Directions 2018-2023"</i>, and <i>"We will work with others and formally partner with the Advocate for Children and Young People to implement these recommendations."</i> The Charter of Governance for the Community Advisory Council stipulates that the composition of the Council is to reflect diversity, including but not limited to young people amongst other groups. The Commission stated, <i>"The Commission will write to the Minister by November 2018 to advise whether the Community Advisory Council appropriately includes the views of people who identify as LGBTQI and young people, and what other ways they could be represented in and part of our work"</i>. However, it is not clear as to what the Minister for Mental Health was advised. This recommendation is not enshrined in statute in the relevant s10(4).</p> <p>ii. Achieved. The wording of s12(2)(e) was changed to: <i>"to take into account the particular views and needs of different sections of the community, including Aboriginal communities, culturally and linguistically diverse communities, gay, lesbian,</i></p>

			<i>bisexual, transgender and intersex communities, young people and regional and remote communities.”</i>
<p>13. That the Commission’s engagement with those identifying as LGBTQI be strengthened, in that:</p> <p>i. the Commission co-design and implement appropriate strategies to engage people identifying as LGBTQI (particularly those with lived experience of mental illness) and carers in its work, and advise the Minister for Mental Health on whether the Community Advisory Council appropriately includes the views of the LGBTQI community.</p> <p>ii. section 12(2)(e) be amended to include consideration of the needs of the LGBTQI community.</p>	Yes	Supported. The Government accepts the review findings that the Commission needs to strengthen its engagement and work with the LGBTQI community, and supports the review recommendations in this regard.	<p>i. No specific strategies to engage people identifying as LGBTQIA+ were noted by the Commission, beyond stating that they will work with the NGOs who support and represent LGBTQIA+ individuals, to decide on priorities to be addressed. Similar to recommendation 12, the Charter of Governance for the Community Advisory Council stipulates that the composition of the Council is to reflect LGBTQIA+ communities. The Commission stated that the Minister would be advised on the Council’s representativeness, however this advice could not be found. This recommendation is not enshrined in statute in the relevant s10(4).</p> <p>ii. Achieved. The wording of section 12(2)(e) changed to: <i>“to take into account the particular views and needs of different sections of the community, including Aboriginal communities, culturally and linguistically diverse communities, <b>gay, lesbian, bisexual, transgender and intersex communities, young people and regional and remote communities.”</b></i></p>
<p>14. That the Commission partner with Aboriginal people and communities to prioritise Aboriginal social and emotional wellbeing; and that the Commission establish an Aboriginal governance and engagement mechanism to support this.</p>	No	Supported. The Government accepts the review findings that the Commission needs to strengthen its engagement and work with Aboriginal people and communities to enhance prioritisation of Aboriginal social and emotional wellbeing; and supports the review	The Aboriginal governance and engagement mechanism is not enshrined in the Act, although the Commission did recommend it to be. There was an Aboriginal Governance and Engagement Consultation in December 2018, the report from which was published, however the page hasn’t been updated since September 2019. The Commission was involved in the development of the ‘Gayaa Dhuwi (Proud Spirit) Declaration and Indigenous Governance Framework’ and the ‘Journey of Wellbeing: A Preliminary Aboriginal Model of Care’.



		recommendations in this regard.	
15. That the Community Advisory Council remains in statute, and related appointments remain Ministerial appointments.	No	Supported. Given the importance and priority of mental health, the Government supports the review recommendation that the Community Advisory Council remain in statute, and that related appointments to the Council remain Ministerial appointments.	Achieved.
16. That the Commission establish a regular strategic planning and prioritisation process, through stakeholder engagement, to set the priorities for the Commission. This process should inform the Commission's own strategic plan and Ministerial Charter letters.	No	Supported. The Government supports the recommendation that the Commission strengthen its strategic planning and prioritisation process, to be done in consultation with stakeholders.	<p>No evidence of the establishment of a formal process for regular strategic planning and prioritisation, to set priorities for the Commission through stakeholder engagement.</p> <p>However, in the Commission's response to the review document (p 8), it stated "<i>The Commission will use multiple sources of expertise and evidence to guide our strategic planning and priority setting.</i>" The Commission further stated it "<i>will draw on our Deputy Commissioners, Community Advisory Council, and annual program of community visits to identify key priorities under our five year strategic plan Key Directions 2018-2023 and to give advice to the Minister for priorities to be included in the Minister's Charter letters.</i>"</p> <p>The Commission also indicated its work carried out in response to recommendations 11 to 14, will strengthen its business planning, and how it sets priorities.</p> <p>The Commission undertook to:</p> <ul style="list-style-type: none"> <li>• "review its Key Directions after three and five years, and seek input from stakeholders regularly", and</li> <li>• "develop a plan by June 2019 to evaluate our performance against Key Directions".</li> </ul>



			In relation to the final paragraph, it is unclear whether these undertakings have been implemented.
17. That the Commission consider the appropriate structure and staff capabilities, to ensure that it is capable of fulfilling its functions and the outcomes of this Review.	No	Supported. The Government supports the recommendation that the Commission consider the internal staffing profile and capabilities required to deliver to its functions and the outcomes of the review.	<p>No strict evidence of this, however the Commission in its response stated that, <i>“The Commission has already begun reviewing our workforce profile to make sure we can effectively deliver on our functions and the findings of the Review”</i>. In relation to strengthening the Commission’s capabilities, the Commission’s ‘Strategic Plan 2023-2028’, undertakes to ‘Develop our professional capabilities’ as a priority. This plan indicates the Commission will do this by:</p> <ul style="list-style-type: none"> <li>• <i>“Training staff and encouraging ongoing education to broaden and deepen existing skill sets.</i></li> <li>• <i>Promoting a culture that values engagement, open communication and constructive feedback.”</i></li> </ul>



## **Appendix 3 – Submission from NSW Mental Health Commission on agency achievements since last review**

### **Monitoring people’s mental health and wellbeing**

The Commission monitors mental health and wellbeing in NSW through direct engagement with people with lived experience of mental health issues and caring, their families and kinship groups, as well as with community, NGO and government service providers. Examples of activities initiated by the Commission include:

- Convening community consultations in metropolitan and regional areas to inform advocacy, projects and major strategy documents such as Living Well in Focus 2020-2024. This plan for community recovery, wellbeing and mental health has 24 action priorities, the result of more than 60 community and service visits across NSW, and the overall participation of around 3000 people.
- Establishing the Mental Health Collaborative to gather and share information about the impacts of COVID-19 on people living with mental health issues and caring, and community services supporting them during the pandemic. This initiative included BEING, Mental Health Carers NSW and the Mental Health Coordinating Council.
- Working with the NSW Council of Social Service to identify the factors which support community resilience and build community recovery following natural disasters. This was the result of in-depth consultation with people in five LGAs.

The Commission also undertakes surveys, analyses data and publishes interpretive reports.

- The website now hosts interactive data for 70 Living Well indicators which tracks the mental health and wellbeing of the people of NSW over time. The first such comprehensive data platform in Australia, it is recognised by researchers such as the NHMRC for its quality and accessibility as a single source of information across three domains – ‘People living well’, ‘Thriving communities’ and ‘A high quality system of support’.
- Since 2020 the Commission has conducted statewide annual surveys noting the trends affecting people and which strategies and services are important to community recovery.
- Each year, the Commission analyses results for NSW of the national Regional Wellbeing Survey and publishes data and an Insights report.

### **Reviewing to chart the course for further reform**

The Commission develops and monitors strategic plans and frameworks to improve mental health and wellbeing. Notable statewide whole-of-government initiatives include Living Well in Focus and Shifting the Landscape for Suicide Prevention.

Following the midterm review of Living Well: A Strategic Plan for Mental Health in NSW 2014-2024, the Commission prepared Living Well in Focus 2020-2024. A year later, it published a Stocktake of the work ahead and in December 2023, the Living Well in Focus 2022-24: Mid-term Progress Report summarising and interpreting the responses from agencies about their activity.

The Commission also developed the Strategic Framework for Suicide Prevention in NSW 2018-2023 and updated it as Shifting the Landscape for Suicide Prevention in NSW 2022-27, setting out key priorities and focus areas, with a monitoring and evaluation plan, Tracking Change in Suicide Prevention. In December 2023, the Commission published the first annual report against Shifting the Landscape.



The Commission researches and assesses aspects of the sector; it prepares reports and develops resources to inform and guide decision-making and future action by service providers. It has also sponsored pilot projects and assessed their impact.

Examples of areas the Commission has been exploring itself or in partnership:

- Using data for assessing planning and investment options to provide the best health and social returns (MhiND-T tool)
- Lived Experience (Lived Experience Framework and toolkit developed in partnership with BEING and Mental Health Carers NSW).
- What works to support the mental health of children aged 0-12 years
- Community living initiatives
- Loneliness in NSW
- Reducing stigma in rural NSW and promoting community awareness
- Supplementing the rural mental health workforce (toolkit and guide in development)
- Promoting community collaboratives
- Peer navigation
- Understanding the challenges and supporting Aboriginal women carers (in development)
- Funding of mental health.

### **Advocating for people with lived experience**

In line with the priorities of Living Well in Focus, a central focus for the Commission's advocacy and project work has been for greater inclusion of people with lived experience of mental health illness and caring in workplace settings, through peer work (consumer peer worker and carer peer worker) and peer navigation. The Commission has developed resources and collaborated on pilot projects, and there has been significant growth in the peer workforce in emergency departments, and for mental health and alcohol and other drug units.

Since 2017, the Commission has lodged some 20 submissions to inquiries and reviews at state and national levels and participated in several hearings.

It has national influence through the Australian and NZ Mental Health Joint Commissioners' meetings. It worked closely with the National Mental Health Commission in the development of the National Mental Health and Wellbeing Pandemic Response Plan and the NSW Commissioner chaired two peak committees focussed on COVID-19 and mental health and wellbeing.

The Commission has participated on NSW cross-government committees and/or working groups such as the Forensic Working Group, NSW Child Death Review Team, State Recovery Plan Committee (health and wellbeing subcommittee) and Rural Adversity Mental Health Evaluation Committee. It is currently represented on bodies including the NSW Mental Health Taskforce, Mental Health Program Council, NSW Ministry of Health Safeguards Advisory Committee, NSW Psychosocial Research Project Group, TAFE NSW Industry Collaboration Reference Group (Community Services qualifications), SIRA Value-Based Health Care Advisory Committee, NCOSS Community Sector Disaster Capability Project Reference Group, the Equally Well Community of Practice and the Carer Rights Education Project (Carers NSW). The former Commissioner was a member of the Beyond Blue Board.

As well as leading media commentary, the Commissioner regularly speaks at sector conferences and hosts events to promote awareness and stimulate discussion on key topics, for example future directions for reform, lived experience, health literacy, the role of carers and the importance of social connection.



The Commission's annual Parliamentary Showcase is an important opportunity to highlight mental health issues and the work of service providers.

The Commission's program and resources to improve and champion mental health literacy were recognised by the World Health Organisation with an invitation to participate in the WHO's global mental health literacy network.

The Commission has enabled the work of community-based organisations through grants programs and recognised leaders who have led mental health reform through Hope, strength and determination:  
Celebrating 50 years of women activists and reformers in mental health in NSW 1970-2020

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- <sup>1</sup> Mental Health Commission of NSW, Reform – the story so far. Available at <https://www.nswmentalhealthcommission.com.au/content/reform-story-so-far>
- <sup>2</sup> Queensland Mental Health Commission Response to Inquiry into the opportunities to improve mental health outcomes for Queenslanders, January 2022, p. 39
- <sup>3</sup> Mental Health Commission of NSW, Governance. Available at <https://www.nswmentalhealthcommission.com.au/content/governance>
- <sup>4</sup> Mental Health Commission of NSW, Charter of Governance, Mental Health Community Advisory Council. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/inline-files/Charter%20of%20Governance%20-%20Community%20Advisory%20Council%20-%202023.PDF>
- <sup>5</sup> Mental Health Commission of NSW, Charter of Governance, Mental Health Community Advisory Council. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/inline-files/Charter%20of%20Governance%20-%20Community%20Advisory%20Council%20-%202023.PDF>
- <sup>6</sup> Figure provided by the NSW Cabinet Office
- <sup>7</sup> NSW Health, Review of the Mental Health Commission of New South Wales, Report to Parliament 2018 ('2017 Review'), p. 46, Available at <https://www.health.nsw.gov.au/mentalhealth/reviews/commission/Pages/default.aspx>
- <sup>8</sup> Mental Health Commission of NSW, Partnering with the community for a stronger commission, August 2018. Available at [https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response\\_to\\_review\\_recommendations\\_web.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/response_to_review_recommendations_web.pdf)
- <sup>9</sup> Mental Health Commission of NSW, Executive Summary Report- Living Well in Focus 2020-2024: Mid-term Progress Report, December 2023. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2023-12/Executive%20Summary%20Report%20-%20Living%20Well%20in%20Focus%202020-2024%20%20Mid-Term%20Progress%20Report.PDF>
- <sup>10</sup> Mental Health Commission of NSW, Living Well in Focus 2020-2024, Monitoring and Reporting Framework. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-08/Living%20Well%20in%20Focus%20LWiF%20Monitoring%20and%20Reporting%20Framework%20-%20FINAL%2019%20May.pdf>
- <sup>11</sup> Mental Health Commission of NSW, Living Well in Focus 2020-2024, Monitoring and Planning Framework, p. 7. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2021-08/Living%20Well%20in%20Focus%20LWiF%20Monitoring%20and%20Reporting%20Framework%20-%20FINAL%2019%20May.pdf>
- <sup>12</sup> Ibid, p. 3
- <sup>13</sup> Mental Health Commission of NSW, Progress report reveals extensive action being undertaken by Government agencies to achieve wellbeing and mental health reform. Available at <https://www.nswmentalhealthcommission.com.au/news/progress-report-reveals-extensive-action-being-undertaken-government-agencies-achieve>
- <sup>14</sup> Mental Health Commission of NSW, Executive Summary Report- Living Well in Focus 2020-2024: Mid-term Progress Report, December 2023. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2023-12/Executive%20Summary%20Report%20-%20Living%20Well%20in%20Focus%202020-2024%20%20Mid-Term%20Progress%20Report.PDF>
- <sup>15</sup> Mental Health Commission of NSW, Strategic Plan 2023-2028. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2023-12/Strategic%20Plan%202023-2028.pdf>
- <sup>16</sup> Mental Health Commission of NSW, Strategic Plan 2023-2028, p. 9. Available at <https://www.nswmentalhealthcommission.com.au/sites/default/files/2023-12/Strategic%20Plan%202023-2028.pdf>

- <sup>17</sup> Mental Health Commission of NSW, Engagement Framework  
[https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/engagement\\_framework\\_on\\_a4.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/engagement_framework_on_a4.pdf)
- <sup>18</sup> Mental Health Commission of NSW, Government Engagement Strategy. Available at  
[https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/tab\\_b\\_-\\_government\\_engagement\\_strategy\\_final\\_report.pdf](https://www.nswmentalhealthcommission.com.au/sites/default/files/old/documents/tab_b_-_government_engagement_strategy_final_report.pdf)
- <sup>19</sup> Ibid, p. 4–5
- <sup>20</sup> Mental Health Commission NSW, Annual Report 2022-2023. Available at  
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