**Australia’s Response – Questionnaire on the rights to freedom of peaceful assembly and of association**

Australia has a strong commitment to enabling the right to freedom of peaceful assembly and association in respect to the exploitation of natural resources. In order to give effect to these rights, Australian authorities seek to actively engage with stakeholders to have their perspectives and concerns included in the decision-making process.

Community engagement and consultation is a central part of Australia’s legislative framework governing the exploitation of natural resources. Examples of this are evident in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC ACT) and the *Water Act 2007* (Water Act).

The environmental impact assessment process under the EPBC Act includes consultation requirements for actions referred to and assessed under the EPBC Act. These include requirements to consult with the community, proponents and governments regarding the assessment and approval of proposed action. The specific nature of these consultation requirements varies depending on the referral, assessment and approval stages for the proposed action. Public comments made during the statutory consultation process must be considered by the federal Minister of the Environment.

Under the EPBC Act, an interested person may apply to the Federal Court for an injunction to stop a party from engaging in conduct which constitutes an offense or contravention of the EPBC Act or EPBC Act Regulations. The definition of interested person includes individuals and organisations with a demonstrated history of undertaking environmental activities.

The Australian Government is currently preparing guidelines that aim to improve the consultation of Indigenous peoples during the environmental assessment process under the EPBC Act. These guidelines include best practice for culturally appropriate consultation with affected Indigenous peoples as early as possible in the planning stages of a project. The guidelines will be finalised in 2015.

The Water Act provides a legal framework for the sustainable and efficient use of Australia’s water resources. An example of this is the development and implementation of the Murray-Darling Basin wide plan for water management, the Basin Plan.

The Murray–Darling Basin is Australia's largest river system and is also one of the world’s driest. It is divided into the northern Basin (Darling system) and the southern Basin (Murray system) and sustains a host of communities, agricultural sectors and ecosystems across five Australian states.

Recognising the importance of stakeholder consultations, the Water Act and the Basin Plan specify various requirements with regards to stakeholder consultations including:

* Consultations with members of the public and relevant state and territory governments must be undertaken when considering any amendments to the Basin Plan;
* Consultations with relevant state and territory governments when adjusting the Sustainable Diversion Limits (the maximum amount of water that can be taken for consumptive use); and
* Consultations by state and territory governments in developing water resource plans.

The consultation processes includes engaging with a range of community, industry and environment organisations.

**Case study 1: Development of Basin Plan and Water Act Review**

The consultation process undertaken in developing the Basin Plan, which commenced in 2012, recognised that community, state and territory consultation was a critical component in ensuring the success and viability of the Basin Plan. In developing the Basin Plan, more than 110 round table and technical meetings with community, industry, Indigenous and environment groups along the Murray-Darling Basin’s rivers were held. In addition, more than 200 multilateral and bilateral meetings and working group sessions were held with state and territory government officials.  A formal 20 week consultation process was also undertaken and included more than 80 public and targeted meetings, 31 bilateral and working group meetings. Over this period, nearly 12,000 submissions were received.

The Water Act underwent a review in 2014 and included consultation with a wide range of stakeholders. The stakeholder consultation process included targeted consultations with national peak bodies, interactive roundtables with organisations with an interest in the Murray-Darling Basin and a formal public consultation process which resulted in over 70 submissions. Bilateral and roundtable meetings with all state and territory governments were also conducted.

**Case study 2: Consultation process for development of Water Resource Plans**

The Basin Plan has the effect of rebalancing the use of Basin water resources between the needs of irrigated agriculture and the environmental needs of the Basin’s rivers and wetlands. In doing so the Basin Plan provides a long-term framework for the sustainable management of Basin water resources that balance the needs of communities, industries and the environment.

One of the key pillars of the Basin Plan framework is the requirement that state governments prepare Water Resource Plans (WRPs) for each regional Basin water-use area. WRPs ensure environmentally sustainable use of water resources for agricultural, domestic and industrial purposes in each water use area, as determined by the Basin Plan. They also include protections for water quality.

When preparing WRPs, state governments must meet the requirements under the Basin Plan to seek a balance between respecting individuals’ rights in the context of natural resource exploitation and the state’s ability to benefit from these resources. Requirements of particular relevance include:

* Demonstrating what consultation has been undertaken by the state government in the preparation of the Water Resource Plan; and
* Determining, through consultation with Indigenous organisations, the objectives of Indigenous people in relation to managing the water resources of the area and the outcomes for the management of the water resources that are desired by Indigenous people.

State governments are also required under the Water Act to consult with neighbouring governments in the preparation of water resource plans where a water resource plan area in one state is adjacent to a water resource area in another state.