



United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) – study on free, prior and informed consent

Introduction

The Australian Government welcomes the opportunity to contribute to the annual EMRIP study on the status of the rights of indigenous peoples worldwide in the achievement of the ends of the United Nations Declaration on the Rights of Indigenous Peoples (the Declaration), with the focus in 2018 being ‘free, prior and informed consent’ (FPIC).

Australia reaffirms its support for the Declaration as the most comprehensive commitment by the international community to the realisation of the human rights of indigenous peoples. We continue our efforts to advance the interests and defend the rights of Aboriginal and Torres Strait Islander peoples in Australia and indigenous peoples around the world.

As background, it is helpful to note that Australia is a federation of six states, together with two self-governing territories, all of which have their own parliaments, governments and laws. The Australian Constitution establishes the Commonwealth Government, referred to here as the Australian Government, defines its structure, powers and procedures, and defines the rights and obligations of the states in relation to the Commonwealth. This submission provides information on the Australian Government’s position on FPIC, with reference to some examples of relevant state and territory initiatives and legislation.

1. Australia’s position on free, prior and informed consent

As a resolution of the United Nations General Assembly, the Declaration carries political and moral weight. Many of the principles set out in the Declaration reflect, or provide further context for, Australia’s obligations under the seven core United Nations human rights treaties. **Australia is legally bound by the obligations in these treaties. Australia notes, however, that FPIC is a concept that is unique to the Declaration. As FPIC is not defined in the Declaration, its scope and content remains unsettled.**

The Australian Government recognises the importance of engaging in **good faith** with Aboriginal and Torres Strait Islander peoples in relation to decisions that affect them. We cannot overcome indigenous disadvantage or build on the strength of indigenous communities if governments do not consult effectively.

The Australian Government is of the view that legal frameworks, policies and practices in Australia are consistent with the aims of the Declaration. In efforts to repatriate ancestral remains¹, to support the maintenance of language² and culture³, and recognising and

¹ <https://www.arts.gov.au/what-we-do/cultural-heritage/indigenous-repatriation>

² <https://www.arts.gov.au/what-we-do/indigenous-arts-and-languages/indigenous-languages-and-arts-program-0>

³ <https://www.pmc.gov.au/indigenous-affairs/culture-and-capability>

respecting the ongoing connection between Aboriginal and Torres Strait Islander peoples to land and water, Australia acts in line with the principles of FPIC in Articles 11, 19, 29 and 32 of the Declaration.

The Australian Government makes efforts to consult in line with the principles of FPIC. This consultation:

- is free from force, intimidation, manipulation or coercion;
- occurs prior to policy decisions wherever possible;
- ensures accessible and comprehensive information is provided to help people make informed decisions; and
- seeks consent wherever appropriate and practicable in the particular circumstances.

Australia takes the approach that consultation should be proportionate to the potential impacts of the proposal. Its form will largely depend on the issues under consideration, who needs to be consulted, and the available time and resources⁴.

Australia recognises that consultation with Aboriginal and Torres Strait Islander peoples that is aimed at achieving consent on matters that significantly impact on Indigenous communities is valuable for effective legislation, policies and programs.

Seeking and obtaining the consent of Indigenous people may be difficult where there is a divergence of views, representatives and interests within Indigenous communities – particularly where such views and interests may differ along lines of gender, age, location and the particular circumstances of individual Indigenous communities. Australia is home to many separate Indigenous cultural groups, exemplified by over 250 different language groups spread across the nation. This can lead to circumstances where a minority of people do not support a measure and consensus cannot be achieved. Any understanding of FPIC that it constitutes a right of veto or that it requires unanimous consent prior to State action, even in circumstances where there is a compelling social need that requires State action, is unlikely to align with Article 46 of the Declaration.⁵

Articles 33-35 of the Declaration emphasise Indigenous peoples' control over their representative institutions and processes. Undertaking consultation and seeking informed consent through representative institutions relies on the Indigenous peoples affected by a measure having established robust representative mechanisms with a high level of legitimacy. Effective FPIC processes may require the State to support the development of Indigenous peoples' own institutions consistent with Articles 4 and 5 of the Declaration while not compromising the independence of those institutions.

Free, prior and informed consent and international law

While a number of multilateral treaties require States to consult, or otherwise engage with, Indigenous peoples on matters that affect them, these requirements are specific to those treaties and they do not equate with the concept of FPIC in the Declaration. For example,

⁴ <https://www.pmc.gov.au/resource-centre/regulation/best-practice-consultation-guidance-note>

⁵ http://www.un.org/esa/socdev/unpfii/documents/Australia_official_statement_endorsement_UNDRIP.pdf

Article 16 of the International Labour Organisation *Indigenous and Tribal Peoples Convention 1989*⁶ requires that relocations of Indigenous and tribal peoples should only occur with their ‘free and informed consent’. Australia is not a party to this Convention which has a relatively low number of ratifications.

Similarly, Article 8(j) of the *Convention on Biological Diversity* (CBD)⁷ requires that traditional knowledge and innovations of Indigenous peoples and local communities should, subject to national legislation, be respected, preserved and maintained and their wider application promoted with the ‘approval and involvement’ of the holders of such knowledge, innovations and practices, and the equitable sharing of benefits promoted from such utilisation. In 2000, at the Fifth Meeting of the Conference of the Parties to the CBD, it was agreed that ‘prior informed consent’ and ‘prior informed approval’ should be sought in implementing the obligation in Article 8(j) of the CBD.

There are also obligations under the *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity* (Nagoya Protocol)⁸, that consistent with domestic law, States aim to ensure that ‘prior informed consent or approval and involvement’ of Indigenous peoples and local communities is obtained in relation to traditional knowledge and access to genetic resources.

While the principle of FPIC in the Declaration cannot alter States Parties’ treaty obligations, there may be elements in these concepts of consultation, consent and approval that the EMRIP could draw from, or which may provide useful guidance, in its consideration of FPIC.

As a matter of regional human rights jurisprudence, the Inter-American Court of Human Rights has held that States Parties to the *American Convention on Human Rights*,⁹ which do not include Australia, have a duty not only to consult with the Indigenous peoples but also to obtain their FPIC according to their traditions and customs¹⁰ and that the right of Indigenous peoples to be consulted is now a general principle of international law.¹¹

Further, the United Nations treaty bodies have issued General Comments and Recommendations, Views and Concluding Observations, which are not binding on

⁶ International Labour Organisation, *Convention concerning Indigenous and Tribal Peoples in Independent Countries* (1989) (No 169), United Nations Treaty Series, Vol 1650, 383, No 1-28383, entry into force 5 September 1991.

⁷ *Convention on Biological Diversity*, United Nations Treaty Series, Vol 1760,79, No 1-30619, entry into force 29 December 1993.

⁸ *Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity*, adopted during the tenth meeting of the Parties to the CBD, UN Doc UNEP/CBD/COP/DEC/X/1, entry into force 12 October 2014.

⁹ Organization of American States (OAS), *American Convention on Human Rights, ‘Pact of San Jose’*, entry into force on 18 July 1978.

¹⁰ Inter-American Court of Human Rights, *Case of the Saramaka v Suriname*, Judgment of 28 November 2007, [134], see also *Case of The Kaliña and Lokono Peoples v Suriname*, Judgment of 25 November 2015, [204], noting that Suriname took the view that ‘the principle of [FPIC] [was] an international requirement that States should adhere to when consulting indigenous and tribal people’.

¹¹ Inter-American Court of Human Rights, *Case of the Kichwa Indigenous People of Sarayaku v Ecuador*, Judgment of 27 June 2012, [164].

States Parties but which must be considered in good faith, to the effect that the consultation with, and the participation of, groups affected by a measure is a factor relevant to the assessment of the compatibility of that measure with human rights obligations.¹² The Committee on Economic, Social and Cultural Rights has stated the view that the ‘principle’ of FPIC should be respected in all matters relating to the specific rights of Indigenous peoples.¹³ However, the treaty bodies’ positions have not been wholly consistent in their reference to consultation and consent, as observed by the International Law Association.¹⁴

The Declaration is not binding as a matter of international law and distinct treaty obligations to consult with Indigenous peoples cannot be conflated with FPIC, particularly given their distinct terminology and context. In addition, Australia is of the view that there is insufficient State practice and *opinio juris* to establish that FPIC has crystallized as a rule of customary international law.

2. Australian Government approaches to consultation and engagement with Aboriginal and Torres Strait Islander peoples

The Australian Government’s Indigenous Affairs agenda is based on supporting true partnerships with Aboriginal and Torres Strait Islander peoples. This is being implemented through deepening engagement with Aboriginal and Torres Strait Islander communities, based on an empowerment approach.

In line with Article 19 of the Declaration, mechanisms for consultation and engagement with Aboriginal and Torres Strait Islander peoples have been put in place at all levels of the Australian Government, to inform national policy and program development, and to work collaboratively with individual communities. For example, through:

- the Indigenous Advisory Council to the Prime Minister¹⁵
- ongoing thematic workshops with Aboriginal and Torres Strait Islander peak bodies, such as the National Congress of Australia’s First Peoples and the Redfern Statement Alliance, on priority issues such as:
 - ‘Closing the Gap’- Australia’s policy framework to address Indigenous disadvantage (See Section 4 below)
 - health
 - housing

¹² See the Committee on Economic, Social and Cultural Rights (CESCR), *An evaluation of the obligation to take steps to the “maximum of available resources” under an Optional Protocol to the Covenant* (2007), UN Doc E/C.12/2007/1, [11] and *General Comment No 19: The right to social security (Art. 9 of the Covenant)* (2008) UN Doc E/C.12/GC/19, [26], [42], the Committee on the Elimination of Racial Discrimination, *General Recommendation No 32, The meaning and scope of special measures in the International Convention on the Elimination of All Forms [of] Racial Discrimination* (2009) UN Doc CERD/C/GC/32, [16]-[18] and the Committee on the Rights of the Child, *General Comment No 11 on Indigenous children and their rights under the Convention* (2009), UN Doc CRC/C/GC/11.

¹³ CESCR, *General Comment No. 21: Right of everyone to take part in cultural life (art. 15, para. 1(a), of ICESCR)*, UN Doc E/C.12/GC/21 (2009), [36], [37]

¹⁴ International Law Association, Sofia Conference, *Rights of Indigenous Peoples, Final Report*, (2012), 4-5.

¹⁵ <https://www.pmc.gov.au/indigenous-affairs/prime-ministers-indigenous-advisory-council>

- child development
- safety and wellbeing
- justice and preventing violence
- disability
- housing.
- The Department of the Prime Minister and Cabinet’s Indigenous Affairs Group incorporates a Regional Network¹⁶, where the Australian Government works closely with Aboriginal and Torres Strait Islander communities across the country to ensure that decisions are made with engagement of the people and communities they affect, in order to achieve more effective and sustainable outcomes.

The Network has more than 500 staff in around 90 locations across urban, regional and remote Australia. These are Commonwealth public servants who work with communities and stakeholders to identify local priorities and solutions that will work for them. The Network comprises 12 regions, the boundaries for which were determined by considering similarities in culture, language, mobility and economy.

3. Australian law and Aboriginal and Torres Strait Islander lands and waters

The Australian Government’s support of the principles in the Declaration pertaining to Indigenous peoples’ land is highlighted by the following legislative and program/policy initiatives.

Laws that give effect to Article 26

*Native Title*¹⁷

Australian law recognises the deep significance of traditional lands and waters to Aboriginal and Torres Strait Islander Australians. Native title arises as a result of the legal recognition of pre-existing Aboriginal or Torres Strait Islander rights and interests, according to the traditional laws and customs currently observed.

Native title rights and interests may include the right to possess and occupy an area to the exclusion of all others, referred to as a right of exclusive possession. A range of non-exclusive rights and interests may also be recognised, including rights to live on the area, hunt, fish, gather, and teach law and custom on country.

At October 2017, **native title has been determined to exist over approximately 35 per cent of Australia’s landmass**, with another 26 per cent currently subject to native title claims.

The *Native Title Act 1993* (Cth) establishes processes for notification, consultation and negotiation with native title holders and claimants about acts affecting their native title rights and interests. The requirements vary according to the type of act proposed. The Native Title Act also creates voluntary processes for native title holders and claimants to

¹⁶ <http://www.indigenous.gov.au/regional-network>

¹⁷ <https://www.ag.gov.au/LegalSystem/NativeTitle/Pages/default.aspx>

negotiate binding agreements for the development and management of land and water with governments and third parties.

Native title holders and claimants do not have a right of veto over acts affecting their native title, but are entitled to compensation on just terms for any loss, diminution, impairment or other effect on their native title rights. This position is not dissimilar to that of other (non-native title) landholders, whose land can be compulsorily acquired under Australian law and who do not have rights of veto over mining developments. Mineral resources are generally the property of the Crown, rather than the landholder.

The Australian Government works closely with Aboriginal and Torres Strait Islander peoples and other key stakeholders, such as state and territory governments, to ensure that the native title system is working effectively to recognise and protect native title rights. For example, the Australian Government is currently developing a package of reforms to the Native Title Act in consultation with stakeholders, in particular Aboriginal and Torres Strait Islander peoples, intended to improve these processes.

Land Rights¹⁸

Unlike native title, land rights are rights created by the Australian, state or territory governments. Land rights most often comprise of a grant of freehold or perpetual lease title to Aboriginal and Torres Strait Islander peoples.

Various statutory land rights regimes exist across jurisdictions in Australia, however, the Australian Government has direct responsibility for Land Rights in the Northern Territory through the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

Under this Act, traditional owners hold the decision-making powers over the use of Aboriginal land. Land Councils assist traditional owners to acquire and manage their land, and royalty equivalents for mining activity on Aboriginal land in the Northern Territory are paid to the Aboriginals Benefit Account¹⁹, which funds a biannual grants round for social and economic development, and infrastructure, project proposals that benefit Aboriginal peoples in the Northern Territory.

Laws and policies that give effect to Article 29

Environment Protection and Biodiversity Conservation Act 1999

The Australian Government's central piece of environmental legislation, *the Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), recognises that Indigenous peoples have an important role in the conservation and ecologically sustainable use of Australia's biodiversity and Indigenous heritage. The 'Engage Early – Guidance for proponents on best practice Indigenous engagement for environmental assessments under the EPBC Act'²⁰ (the Guidelines) aim to improve how proponents engage and consult Indigenous peoples during the environmental assessment process under the EPBC Act. It provides guidance to project proponents on when Indigenous communities

¹⁸ <https://www.pmc.gov.au/indigenous-affairs/land>

¹⁹ <https://www.pmc.gov.au/indigenous-affairs/grants-and-funding/aboriginal-benefit-account-aba-grant-funding>

²⁰ <http://www.environment.gov.au/epbc/publications/engage-early>

should be consulted (in addition to the statutory public comment periods required under the EPBC Act), and sets out the Department of the Environment's expectations on how Indigenous engagement should occur.

This document complements the 'Ask First: A guide to respecting Indigenous heritage places and values'²¹, published by the Australian Heritage Commission (now the Australian Heritage Council) in 2002. The Ask First guidelines are a practical guide for proponents on Indigenous heritage issues and include steps for consultation and negotiation with Indigenous peoples.

The Australian Government considers that best practice consultation includes:

- **identifying and acknowledging all relevant affected Indigenous peoples and communities**
- **committing to early engagement at the pre-referral stage**
- **building trust through early and ongoing communication for the duration of the project, including approvals, implementation and future management**
- **setting appropriate timeframes for consultation, and**
- **demonstrating cultural awareness.**

Land and Sea Management

The Australian Government recognises and respects the knowledge that Aboriginal and Torres Strait Islander peoples hold about managing Australia's land and sea country and about conserving biodiversity.

The Government funds the Indigenous Rangers – Working on Country²² and Indigenous Protected Areas²³ programs to support Aboriginal and Torres Strait Islander communities to undertake land and sea management projects.

Indigenous Protected Areas (IPAs) combine traditional and contemporary knowledge into a framework to leverage partnerships with conservation and commercial organisations and provide employment, education and training opportunities for Aboriginal and Torres Strait Islander peoples. This program has been assisting Indigenous communities to voluntarily dedicate their land or sea country as IPAs since 1997.

IPA projects are supported through a multi-year funding agreement and many Indigenous organisations supplement this funding through fee-for service or other income generating activities, as well as support from private sector and philanthropic organisations.

IPAs are recognised as part of the National Reserve System, protecting the nation's biodiversity for the benefit of all Australians. In 2017, there were 75 dedicated IPAs making up 44.6 per cent the National Reserve System.

Storage and Disposal of Hazardous Material

In 2014, the Australian Government undertook a nationwide voluntary process for land owners to nominate land for a waste facility, consistent with the *National Radioactive*

²¹ www.environment.gov.au/resource/ask-first-guide-respecting-indigenous-heritage-places-and-values

²² <https://www.pmc.gov.au/indigenous-affairs/environment/indigenous-rangers-working-country>

²³ <https://www.pmc.gov.au/indigenous-affairs/environment/indigenous-protected-areas-ipas>

*Waste Management Act 2012*²⁴. The Barndioota and Kimba sites in South Australia were selected for further assessment because of broad community support.

No decision has been made on the final location of the facility and the facility will not be forced on an unwilling community, in line with Article 29(2) of the Declaration.

The next phase will include further consultation with local communities, a detailed design, safety, environmental and technical assessment, and an Indigenous heritage assessment with traditional owners.

4. Australian Government support for Aboriginal and Torres Strait Islander leadership and governance

Programs and policies that give effect to Article 13, 19 and 21

*Closing the Gap Refresh*²⁵

In December 2007, the Council of Australian Governments pledged to close key gaps in outcomes between Indigenous and non-Indigenous Australians.

Specific targets were developed to reduce inequalities in Aboriginal and Torres Strait Islander life expectancy, mortality, education and employment. A seventh target to close the gap in school attendance was added in 2014.

Australia recently marked the tenth anniversary of Closing the Gap. Three of the seven national targets are on track and four will expire in 2018. Australian governments acknowledge they need to work differently with Aboriginal and Torres Strait Islander Australians, and have committed to a process to “refresh” the Closing the Gap targets.

This includes genuine partnership with Indigenous leaders, organisations and communities, to identify the priorities that will inform better programs and services.

The refresh is an opportunity to build stronger relationships with Aboriginal and Torres Strait Islander peoples and support them to lead local solutions and be involved in every step of decision-making. Consultations for the refresh were recently extended to October 2018 to ensure that state and territories can consult widely and develop their own targets under the broader national targets.

Australian governments are working together with Aboriginal and Torres Strait Islander organisations and communities on a refreshed agenda and new targets to help close the gap in disadvantage and build on the strengths of Indigenous communities.

To support this a Special Gathering of 64 prominent Aboriginal and Torres Strait Islanders was hosted by the Australian government to provide advice on future policy priorities under the refresh of the Closing the Gap agenda. A delegation of the Gathering met with the Prime Minister and state and territory ministers to deliver a statement, which called for principles of empowerment and self-determination to be included in the refreshed agenda.

²⁴<https://industry.gov.au/resource/RadioactiveWaste/RadioactivewastemanagementinAustralia/Pages/NationalRadioactiveWasteManagementAct2012.aspx>

²⁵ <https://closingthegaprefresh.pmc.gov.au/>

Other consultations under the refresh include 14 national roundtables around Australia, of which 8 have been completed thus far.

Empowered communities²⁶

In 2013, 25 Indigenous leaders from eight regions gathered and decided to join forces to achieve transformational changes in their communities. They wrote a report to Australian governments in 2015 that set out a plan for a long-term Indigenous empowerment framework built on a partnership between Indigenous peoples, governments and corporate partners.

The Australian Government responded by committing to working with the leaders, communities and stakeholders across each region to jointly agree and work together on community priorities and regional investment.

The Empowered Communities initiative currently operates in eight regions:

- Cape York, Queensland
- Central Coast and Inner Sydney, New South Wales
- Goulburn Murray, Victoria
- East Kimberley and West Kimberley, Western Australia
- Ngaanyatjarra Pitjantjatjara Yankunytjatjara (NPY) Lands, Central Australia
- North East Arnhem Land, Northern Territory.

The Australian Government has also committed to support the partnership by providing transparent access to information and data that will enable the Empowered Communities leadership to make informed decisions about ongoing and upcoming regional investment.

Implementation of the Empowered Communities model is in its early stages, with the mature model expected to emerge over the next three years. Governments and Empowered Communities leaders are co-designing frameworks for joint decision making and monitoring and evaluation.

Given the pioneering nature of the partnership, there is strong commitment by Indigenous leaders and governments to ensure that formative challenges and successes are captured to feed into ongoing learning and refinement of the approach ('learn and adapt as you go').

Ensuring access to political participation

Australia is acting to increase access to political participation for Aboriginal and Torres Strait Islander peoples. In 2009, the Australian Electoral Commission (AEC) established the Indigenous Electoral Participation Program²⁷ to increase Aboriginal and Torres Strait Islander electoral participation by improving electoral knowledge, enrolment, turnout and vote formality levels.

²⁶ <https://www.pmc.gov.au/indigenous-affairs/empowered-communities>

²⁷ <http://www.aec.gov.au/Indigenous/iepp.htm>

The AEC employs Indigenous and Community Engagement Officers to deliver electoral services to Aboriginal and Torres Strait Islander peoples in local communities in ways that meet cultural and regional needs. These services include:

- electoral information sessions
- tailored materials for Indigenous voters
- training for Indigenous Voter Information Officers
- remote mobile polling services
- community outreach activities.

*Aboriginal and Torres Strait Islander Interpreters*²⁸

Language is a core part of Aboriginal and Torres Strait Islander cultures, and it is vital that people who speak an Indigenous language are able to access government services and information, as supported by Article 13 of the Declaration.

The vital role of Aboriginal and Torres Strait Islander language interpreters has been further recognised by the publication of a new version of the *Protocol on Indigenous Language Interpreting for Commonwealth Government Agencies*²⁹. The new Protocol will form part of the Australian Government's toolbox on how to best communicate with Aboriginal and Torres Strait Islander people who speak Indigenous languages.

The update outlines the importance of credentialed and registered interpreters to approximately 60,000 Aboriginal and Torres Strait Islander people across Australia who speak Indigenous languages (2011 Census).

The Protocol has been updated to embed the following core principles:

- The Australian Government recognises that language is essential to the wellbeing, culture and identity of Aboriginal and Torres Strait Islander Australians. Language plays an integral role in maintaining the strength of Indigenous communities.
- Indigenous language interpreters are critical to ensure Aboriginal and Torres Strait Islander Australians are effectively engaged with, and have equal access to, government services and opportunities.
- Aboriginal and Torres Strait Islander people have a right to understand and be understood when communicating with government and service providers.

5. Protecting cultural property

Consistent with Article 11(2) of the Declaration, the Australian Government is taking steps to protect Aboriginal and Torres Strait Islander peoples' cultural, intellectual, spiritual and religious property through the Standing Committee on Indigenous Affairs' inquiry *The growing presence of inauthentic Aboriginal and Torres Strait Islander 'style' art and craft products and merchandise for sale across Australia*³⁰. The Standing Committee on Indigenous Affairs is a group of Members of the House of Representatives who look into

²⁸ <https://www.pmc.gov.au/indigenous-affairs/culture-and-capability/indigenous-interpreters>

²⁹ <https://www.pmc.gov.au/resource-centre/indigenous-affairs/protocol-indigenous-language-interpreting-commonwealth-government-agencies>

³⁰ <https://www.aph.gov.au/inauthenticart>

issues in a way that is not possible in the parliamentary chambers. They then report their findings to parliament.

Parliamentary committees like this provide an opportunity for organisations and individuals to participate in policy making and to have their views placed on the public record and considered as part of the decision-making process. The aim of the inauthentic art inquiry is to identify ways to prevent the exploitation and misuse of Aboriginal and Torres Strait Islander cultures through the proliferation of inauthentic Aboriginal and Torres Strait Islander 'style' products. Submissions to the inquiry are currently open and the Standing Committee is due to report its recommendations by mid-late 2018.

6. Australian Government support for the free pursuit of economic development

Greater access to, and participation in, the global economy will strengthen the economic prosperity of Aboriginal and Torres Strait Islander peoples and support them in freely pursuing their economic development, in line with Articles 1 and 3 of the Declaration.

The Australian Government is pleased that in 2017 EMRIP facilitated international discussions about indigenous economic empowerment and undertook its 'study on the good practices and challenges in business and in access to financial services by indigenous peoples'. Domestically, Australia is implementing a range of initiatives aimed at advancing the economic rights of Aboriginal and Torres Strait Islander peoples.

In 2015, the Australian Government introduced a dedicated Indigenous Procurement Policy³¹ (IPP) under the legislative instrument of the Commonwealth Procurement Rules to leverage the Commonwealth's annual multi-billion procurement spend to drive demand for Indigenous goods and services, stimulate Indigenous economic development and grow the Indigenous business sector.

In November 2017, the Australian Government released a Charter for Indigenous Australian Businesses that provides information on how Indigenous businesses can engage with international markets and investors.

On 12 February 2018, the Australian Government launched the Indigenous Business Sector Strategy³². The Strategy outlines a suite of actions to support a vibrant and thriving Indigenous business sector across Australia. It builds on the success of the IPP to put Aboriginal and Torres Strait Islander businesses at the forefront of the Australian economy and draws on solutions put forward by Indigenous businesses.

7. Next steps

The Australian Government understands the need to broaden and deepen awareness of the Declaration, and how policies and programs relate to the principles therein. In line with this need, we are engaging with peak Aboriginal and Torres Strait Islander organisations,

³¹<https://www.pmc.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>

³² <https://www.pmc.gov.au/indigenous-affairs/economic-development/supercharging-indigenous-businesses-indigenous-business-sector-strategy>

including the National Congress of Australia’s First Peoples, and the Australian Human Rights Commission, for advice.

As part of this process, we are also undertaking a partial analysis of Australian Government policies and initiatives against the articles of the Declaration, examining and identifying any actions already being progressed, and to identify any gaps. An indication of what this work would look like is shared below. Our work to identify gaps will assist us in developing an approach, with Aboriginal and Torres Strait Islander peoples, to continue improving how we are giving effect to FPIC and the Declaration.

Law, policy or program	Consistent with UNDRIP Article
Standing Committee on Indigenous Affairs’	11
Aboriginal and Torres Strait Islander Interpreters	13
Indigenous Electoral Participation Program	13, 19
Empowered Communities	13, 19, 21
Indigenous Advisory Council	19
Indigenous Affairs Network	19
National Radioactive Waste Management Act 2012	29
Environment, Land and Sea Management	26, 29
Native Title	26, 27
Land Rights	26, 27
Indigenous Procurement Policy & Business Strategy	3, 32