



29 August 2023

Beatriz Balbin
Chief
Special Procedures Branch
Office of the High Commissioner for Human Rights
Palais des Nations
1121 Geneva 10
SWITZERLAND

Dear Chief Balbin

Thank you for your correspondence of 3 October 2023 in relation to the mandates of the Special Rapporteur on the right to development and the Special Rapporteur on the rights of Indigenous Peoples, Reference: **AL AUS 2/2023**.

The Australian Government provides the following observations on the raised matters:

- 1. Please provide any additional information and/or comment(s) your Excellency's Government may have on the referendum*

On 14 October 2023, the Government delivered on its commitment to hold a referendum to change the Constitution to recognise the First Peoples of Australia through a body called the Aboriginal and Torres Strait Islander Voice. The referendum was not carried. The Government respects the decision of the Australian people and the democratic process that delivered it.

The referendum was about changing the Constitution. The outcome of the vote does not affect work already underway across governments to create better outcomes for Aboriginal and Torres Strait Islander people. It does not affect the Government's commitment to reconciliation.

Following the referendum, there is a renewed national awareness of the need to close the gap in Indigenous health, education, employment, housing and justice. The Government remains committed to listening to Aboriginal and Torres Strait Islander people and communities on how to build a sustainable pathway toward reconciliation and improved outcomes. The Government considers this consultation process a priority in order to ensure that First Nations perspectives are considered in future policies and programs.

- 2. Please provide information about the measures taken by your Excellency's Government in building consensus around the Referendum and countering the misinformation campaign.*

Members of Parliament including from the major parties met with the First Nations Referendum Working Group during its deliberations.

The Government wanted to ensure all Australians had the information they needed to cast an informed vote. Members of the Government, including the Prime Minister and Cabinet Ministers, used a range of avenues to ensure factual information about the referendum was available to stakeholders and constituents in the lead up to the referendum. This included using speaking engagements, public forums and stakeholder meetings to build awareness and understanding of the referendum and proposed constitutional amendment.

The Government also ran an information program to help ensure all members of the Australian public had access to fact-based information about the referendum. The Government maintained a website as the central source of information about the proposed constitutional amendment and process leading up to the referendum. Materials on the website were translated into 53 different languages, including 17 First Nations languages, and Australian sign language. A national advertising campaign and stakeholder engagement strategy helped build awareness of the referendum and website. More than 2 million printed information booklets and fact sheets were also distributed around the country.

Currently, there is no legislative framework in Australia to prevent the spread of misinformation. The *Australian Code of Practice on Disinformation and Misinformation* is a voluntary industry code with the signatories committing ‘to safeguards to protect Australians against harm from online disinformation and misinformation, and to adopting a range of scalable measures that reduce its spread and visibility.’

The Australian Electoral Commission (AEC) operates a Disinformation Register for federal electoral events, including referendums, as part of their responsibility to ensure Australian voters have access to fact-based information about electoral processes. This is a relatively new tool used as part of the AEC’s Reputation Management Strategy to defend Australian elections from disinformation. Each event, the Register lists prominent pieces of disinformation the AEC has discovered regarding the electoral process. It also provides details of actions the AEC has taken in response. The AEC was not responsible for fact-checking claims about the Yes or No cases for the referendum, however a number of organisations outside of government were running fact checking processes in relation to claims made about the proposed constitutional amendment.

3. *Please provide information about the steps, irrespective of the Referendum’s outcome, that the Government propose to take to realise all human rights, including the rights to development and self-determination, of the First Peoples of Australia in accordance with international human rights law.*

Australia’s enduring commitment to protecting and promoting human rights is reflected in our strong domestic laws, policies and institutions and in our active international engagement and advocacy. Further details are provided in regular reporting to the UN Human Rights treaty bodies.

The Government has funded the Australian Human Rights Commission to develop a National Anti-Racism Strategy. The Strategy includes a National Anti-Racism Framework to support government, civil society, businesses and the community to tackle racism and promote racial equality in Australia at a structural and systemic level. The Strategy also extends the successful ‘Racism. It Stops with Me’ campaign, which seeks to

raise public awareness, deliver public education and build community capacity to combat racism and discriminatory attitudes.

On 15 March 2023, the Attorney-General referred Australia's 2010 Human Rights Framework and the National Human Rights Action Plan to the Parliamentary Joint Committee on Human Rights (the Committee) for inquiry and report by 31 March 2024. The Committee is considering whether the Framework remains fit for purpose, or if improvements can be made, as well as whether the Australian Parliament should enact a federal Human Rights Act. The Government will consider the Committee's recommendations once their report is finalised.

4. Please provide information about the measures taken, or proposed, to achieve reconciliation with First Peoples and truth-telling about Australia's history.

The Australian Government is committed to reconciliation and prioritising First Nations policy in full partnership with First Nations people. This is currently being progressed through a range of key measures.

Closing the Gap – National Agreement and Priority Reforms

- The National Agreement recognises that Aboriginal and Torres Strait Islander people are the experts in their own lives and that they must lead the way in developing and implementing solutions to the challenges they face.
- It focuses on addressing the root causes of inequality, rather than simply treating the symptoms. The National Agreement recognises that the gap between Aboriginal and Torres Strait Islander people and other Australians is not simply a matter of individual disadvantage, but rather a product of systemic racism and discrimination.
- The Priority Reforms in the National Agreement are designed to address these root causes by transforming the way governments work with Aboriginal and Torres Strait Islander people, strengthening the Aboriginal and Torres Strait Islander community-controlled sector, and improving access to data.
- One of the indicators of progress towards Priority Reform Three (Transforming Government Organisations) is that there are now an increased number of government mainstream institutions and agencies with a Reconciliation Action Plan (RAP) in place. A RAP gives an organisation a framework to contribute to the reconciliation movement. RAPs deliver tangible and substantive benefits for First Nations peoples and increase cultural safety in the workplace.

Stolen Generations Redress Scheme

- The Territories Stolen Generations Redress Scheme (the Scheme) is a \$378.6 million financial and wellbeing package for Stolen Generations survivors who were removed from their families or communities in the Northern Territory or the Australian Capital Territory (prior to self-government), or Jervis Bay Territory.

- The Scheme is an important step in truth-telling and reconciliation, assisting to heal the wounds of the past and build trust between Aboriginal and Torres Strait Islander peoples and the Australian Government.
- It seeks to provide financial redress for and recognition of the harm and trauma experienced by Stolen Generations survivors.
- It supports healing and recovery.

Self-determination - Native Title

- Native title plays a significant role in reconciliation. It recognises the Aboriginal and Torres Strait Islander peoples' continuing connection to their traditional lands and waters, and their right to maintain and develop their cultures. Recognising and respecting these rights is essential for reconciliation.
- The Australian Government funds a national system of 14 Native Title Representative Bodies/Service Providers to provide assistance to native title claimants and holders, including establishment and support for Prescribed Bodies Corporate (PBCs). These are corporations established to manage and protect their native title holders' rights and interests.
- The Government is also working with the PBC sector to strengthen capacity and help native title holders achieve their social, cultural and economic aspirations.

Reconciliation Australia

- The Australian Government's continued support for Reconciliation Australia (RA) is a key mechanism to build understanding of Aboriginal and Torres Strait Islander cultures, societies and traditions in the wider community.
- The Australian Government funds RA under the Indigenous Advancement Strategy (IAS) Program 1.4 Culture and Capability. The agreement provides \$7.2 million from 1 July 2023 to 30 June 2025 (\$3.6 million per annum) for RA's core business, including the:
 - ✦ Reconciliation Action Plan (RAP) program, involving ongoing collaboration with organisations to develop a RAP and monitor its progress.
 - ✦ Narragunnawali: Reconciliation in Education program, which supports schools and early learning services to foster knowledge and pride in Aboriginal and Torres Strait Islander histories, cultures and contributions.

Truth-Telling

The Australian Government supports truth-telling as an essential element in progressing Australia's journey towards reconciliation and building a stronger future together. Truth-telling is also central to delivering on the transformational elements under Priority Reform three of the National Agreement on Closing the Gap: to identify and eliminate

racism, embed and practice meaningful cultural safety, and deliver services in partnership with Aboriginal and Torres Strait Islander organisations, communities and people.

The Government is aware of and supports the engagement of state and territory governments and local community groups in local and regional truth-telling initiatives in ways that are unique and authentic to those locations.

The Government acknowledges the many truth-telling activities that are already taking place across the country and will continue to monitor their progress. The Government will work in partnership with First Nations peoples, community groups, and other levels of government to ensure that our next steps will complement and support local initiatives and models of truth-telling.

5. *Please provide information on any measures that your Excellency's Government has taken, or intends to take, to implement UNDRIP and to bring its existing legislation relating to First Peoples of Australia in compliance with international human rights law.*

As a matter of policy, Australia supports the United Nations Declaration on the Rights of Indigenous Peoples and shares its underlying commitment to deliver real and lasting improvements for First Nations people and their communities. We give practical effect to the Declaration through the development of domestic policies and programs for example, the National Agreement on Closing the Gap.

On 2 August 2022, the Commonwealth Senate referred the Declaration to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs for inquiry and report. On 28 November 2023, the Committee presented its report on the application of the United Nations Declaration on the Rights of Indigenous Peoples in an Australian context. The Australian Government will ensure its response to the recommendations made in the report are determined in partnership and through meaningful consultation with First Nations people.

Thank you for contacting us on these matters. I trust this information is of assistance.

Yours sincerely



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Ambassador and Permanent Representative
Australian Permanent Mission to the United Nations
Australian Delegation to the Conference on Disarmament