

**UN Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) – Consultation on the promotion and protection of the rights of Indigenous peoples with respect to their cultural heritage.**

The Australian Government provides the following contribution to the EMRIP study on the promotion and protection of the rights of Indigenous peoples with respect to their cultural heritage.

**New approach to Indigenous Affairs** – The Australian Government has committed to a new engagement approach with Aboriginal and Torres Strait Islander peoples, which involves their further engagement in the policy processes that will deliver practical changes to improve their lives. The Government recognises that underlying cultural values and heritage are important for Aboriginal and Torres Strait Islander peoples.

The Government's Indigenous Advancement Strategy provides a platform for structural reform which achieves sustainable outcomes, through a community-led approach. These new programme arrangements support an increase in practical, place-based solutions. The Strategy commenced on 1 July 2014 with funding of \$4.8 billion over four years. The Strategy replaced more than 150 individual programmes and activities with five flexible, broad-based programmes. These programmes focus on achieving positive results in the Government's key priority areas of education, employment and community safety. The five broad programmes are:

- Jobs, Land and Economy;
- Children and Schooling;
- Safety and Wellbeing
- Culture and Capability; and
- Remote Australia Strategies.

The Government's Indigenous Affairs Network will move to a regional model to ensure that decisions can be made with closer engagement of the people and communities they affect. This model will achieve a devolved decision-making process which ensures closer engagement with local Indigenous communities to achieve more effective and sustainable outcomes.

**Culture and Capability Programme** – The Government's Culture and Capability Programme supports the acknowledgement of the unique place Indigenous people and cultures have in Australian society. It is important Indigenous people have a voice so that they can better participate in the social and economic life of the nation. Grant funding is provided for activities that promote Indigenous peoples' participation and acceptance, such as maintaining Indigenous cultures; respectful forms of engagement; strengthening the capability of Indigenous individuals, families, communities and organisations; and enhancing Indigenous peoples' governance and leadership skills to maximise the chances of achieving real and sustainable change for the better.

**Traditional occupations and Indigenous land and resources** – Under the Indigenous Advancement Strategy, the Working on Country Indigenous ranger programme combines

Indigenous knowledge and values with the latest innovations in science to deliver significant environmental and cultural outcomes across remote and regional Australia. This includes improved management of fire, feral animals, invasive weeds, threatened species, coastal and marine systems and intergenerational transfer of traditional knowledge.

Under this programme, Indigenous Protected Areas (IPAs) are established by Indigenous organisations on Indigenous owned or jointly managed land or sea that can be used to sustainably generate economic and social benefits, while protecting natural and cultural values. IPAs are recognised by the Australian Government as part of the National Reserve System.

**Heritage and Conservation** –The Australian Government supports the identification, conservation and promotion of heritage places important to Aboriginal and Torres Strait Islander people.

Under Australia’s Federal system, heritage protection is primarily the responsibility of the states and territories. Each state and territory has its own legislation and regulatory arrangements governing heritage protection. Nonetheless, the Federal Australian Government also maintains heritage responsibilities.

The *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (the **EPBC Act**) is the primary federal environment and heritage legislation. The EPBC Act includes provisions for protecting and managing World Heritage and National Heritage values of places inscribed on the National and World Heritage Lists, including the Indigenous heritage values of a place.

In addition, the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (ATSIHP Act) enables the Australian Government Environment Minister to respond to requests to protect areas and objects of particular significance to Indigenous Australians from threats, if it appears that applicable state or territory laws have not provided effective protection.

In recent years, Indigenous peoples have been actively engaged in the development of World and National Heritage assessments, providing cultural knowledge and expertise in the identification of heritage values. The West Kimberley, for example, was included on the National Heritage List in 2011 after extensive traditional owner consultation.

The Australian Heritage Council is the Australian Government's expert advisory body on heritage matters and membership includes Indigenous people with appropriate heritage expertise to represent the interests of Indigenous people.

The Australian Heritage Council, as well as state and territory heritage councils, have adopted the Burra Charter as best-practice heritage management and cultural heritage management in Australia. The Conservation Principles in the Burra Charter form the basis of management of all places of cultural significance in Australia. The Charter establishes appropriate decision-making processes and ensures the participation and inclusion of cultural groups that are affected. It also denotes that the conservation, interpretation and management of a place should provide for the participation of people for whom the place has a special association or meaning, or who have social, spiritual or cultural responsibilities for the place.

The EPBC Act also established the Indigenous Advisory Committee (IAC) as a statutory committee. IAC advises the Environment Minister on the operation of the EPBC Act, and provides strategic advice on environment and heritage programmes, policy and consultation strategies, to ensure better access and engagement for Aboriginal and Torres Strait Islander peoples. The Committee includes Indigenous Australians who are appointed by the Minister based on expertise in Indigenous land and sea management, conservation and sustainable use of biodiversity, and cultural heritage management.

**Protection of Movable Cultural Heritage** – Australia is a party to the 1970 UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Cultural Property and has implemented the Convention into domestic Australian law through the *Protection of Movable Cultural Heritage Act 1986* (the PMCH Act).

The PMCH Act establishes the National Heritage Control List (the List) which specifies the protection, control and export of all of Australia's movable cultural heritage, including Australian Indigenous movable cultural objects. The PMCH Act also provides for the return of foreign cultural property which has been illegally exported from its country of origin. Cultural objects must be assessed against a set of criteria established by the List to determine if they are Australian protected objects that are either; not to be exported (Class A Objects); or can only be exported with a permit or certificate issued by the Australian Government (Class B Objects).

The protection of Australian Indigenous Cultural heritage is specifically covered by Parts 1 and 5 of the List. These parts determine that objects of Australian Aboriginal and Torres Strait Islander heritage, including sacred and secret ritual objects, traditional burial objects, rock art, dendroglyphs and objects of fine art, are either Class A objects that cannot be exported, or Class B objects that can only be exported with a permit or certificate.

**Repatriation of Indigenous Human Remains** – The Australian Government's policy on Indigenous Repatriation was released in 2011. The Attorney-General's Department, through the Ministry for the Arts, administers the Indigenous Repatriation Program which facilitates the return of Aboriginal and Torres Strait Islander ancestral remains from overseas institutions, to their communities of origin. A key initiative of the policy was the formation of the Advisory Committee for Indigenous Repatriation in 2012. This all-Indigenous advisory committee is appointed by the Minister for the Arts to advise on policy and program issues related to Indigenous repatriation from Australian and overseas collections.

The Australian Government works collaboratively with all stakeholders. These include Aboriginal and Torres Strait Islander communities, other Australian Government agencies, Australian museums, state, territory and local governments, collecting institutions and overseas governments and institutions. To date, the Program has facilitated the return of over 1400 ancestral remains and over 1400 secret sacred objects from within Australian collections, and brought home more than 1200 ancestral remains to Australia from overseas.

**Indigenous languages** - The Australian Government recognises the fundamental role that culture and language play in the lives and wellbeing of Aboriginal and Torres Strait Islander peoples and is committed to supporting Indigenous culture, languages and visual arts. Across Australia, a wide range of activities are funded by the Australian Government under the *Indigenous Languages Support (ILS) Program*. These activities maintain, revive and transmit Australian Indigenous languages as living systems of knowledge shared by communities and passed on to new generations of Aboriginal and Torres Strait Islander peoples.

Activities include community run language centres and programs, research projects, language database development, innovative projects using multimedia and new technologies and the development of language resources by regional language centres and other key advocacy and training organisations. The Australian Government has also made a substantial funding contribution to Indigenous interpreting services since 2000, for initiatives to improve the supply of Indigenous interpreters to assist speakers of Indigenous languages accessing services, including those who come in contact with the justice system.

**Constitutional Recognition** - The Australian Government is committed to recognising Indigenous peoples as the First Australians in the Australian Constitution. Recognising Indigenous Australians in the Constitution would acknowledge a shared history as well as the value placed on our Aboriginal and Torres Strait Islander heritage.

In March 2013 the Australian Parliament unanimously passed the Aboriginal and Torres Strait Islander Peoples Recognition Act 2013, which recognises Indigenous peoples as the first inhabitants of Australia and represents a significant step towards a referendum for constitutional change. The Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples was re-established in December 2013 to build multi-partisan parliamentary consensus on the content and wording of referendum proposals. It is due to report to the Government by 30 June 2015.

The Prime Minister has reaffirmed his commitment to holding a referendum to recognise Indigenous peoples in the Constitution, and hopes to see Australia vote on the issue by 2017. The Government has also funded the ‘Recognise’ campaign, through Reconciliation Australia, to help build community awareness and support for Constitutional recognition.

**Intellectual Property** – ‘Dream Shield’ is a public education program run by the Australian Government agency, Intellectual Property Australia. It empowers Indigenous Australians to make the most of their intellectual property rights, and acknowledges the importance of the maintenance, control, protection and development of Aboriginal and Torres Strait Island peoples’ traditional knowledge and traditional cultural expression. Developed in collaboration with Indigenous peoples, Dream Shield has been supported with training for business advisors. The resources include a widely disseminated booklet and online videos which profile case studies of how each intellectual property right can benefit Aboriginal businesses and communities, including artists and other cultural businesses.