

## STRONGER FUTURES CONSULTATION PROCESS SCORE CARD

Australia's obligation under international law to consult with Aboriginal and Torres Strait Islander Peoples in relation to decisions that impact upon them is firmly rooted in international human rights law and unambiguously stated in a number of international instruments including articles of the United Nations Declaration on the Rights of Indigenous People that Australia has endorsed. According to international standards, good faith negotiations should be conducted in a climate of confidence engendering mutual respect, directed towards mutually acceptable arrangements **prior** to decisions about proposed measures. Consultations should allow the affected Indigenous people and peoples to genuinely influence the decision-making processes rather than be a tokenistic mechanism for providing affected people with information about decisions already made. Crucially policies and programs developed in collaboration with affected communities that are tailored to their needs are also more likely to work!

The following criteria are indicators of a consultation process that fulfils the requirements of international law *and* best practice.

CRITERION	PERFORMANCE	GRADE (1 – 5)
<b>Pre-consultation phase</b>		
Input into content and scope of documents and what were to be negotiations before meetings are set	<ul style="list-style-type: none"> <li>• Stronger Futures Discussion Paper prepared without input of affected communities</li> <li>• Eight topics for discussion were described as 'based on discussions with Aboriginal people over the last four years' with no explanation on how these were identified as priorities</li> </ul>	2
Input into the design and implementation of the actual local consultation procedures by the affected Aboriginal communities	<ul style="list-style-type: none"> <li>• Affected communities just told when and where consultation meetings would take place but with no notice re: content of discussions/agenda</li> <li>• Consultation meetings organised and conducted by Government employees, with no independent facilitator</li> </ul>	1
Subtotal pre-consultation (see below)		3/10
<b>Consultation phase</b>		
Time is allowed for setting processes and ongoing review of those processes, opportunity for long-term, positive relationships to develop	<ul style="list-style-type: none"> <li>• One-off consultations started 6 days after the Discussion Paper was released with many of the dates clashing with other local needs</li> </ul>	1
Various participatory methods used (oral, written, electronic and aided by translators) to maximise participation	<ul style="list-style-type: none"> <li>• Documents intended to guide discussion were not translated into Aboriginal languages but Interpreters generally used – improvement from 2009 consultation process</li> <li>• Limited ability to grasp the Aboriginal perspective by facilitators, limited time for discussion</li> <li>• Government's independent reviewer (CIRCA) critical of written materials as too long, inaccessible and covering too many themes, with people overwhelmed and confused by the number of questions</li> </ul>	2
Transparent and clear parameters, being clear about proposed outcomes	<ul style="list-style-type: none"> <li>• Many consultations were more like a controlled chat run by departmental officers, covering numerous topics.</li> <li>• Some participants told that 'everything' was open for discussion, including whether the Intervention would continue at all.</li> <li>• Measures or proposals included in Discussion Paper were vague; specific measures not clearly discussed</li> <li>• No clear statement of next steps or who was responsible for what.</li> </ul>	2
Potential and real risks, costs and benefits of proposals	<ul style="list-style-type: none"> <li>• No specific measures or proposals were included in Discussion Paper although drafting of Stronger Future Bills</li> </ul>	1

explained	must have been well under way	
How input will affect decision-making processes explained	<ul style="list-style-type: none"> <li>No explanation given, other than comments would be 'fed' to Canberra</li> </ul>	2
How data will be accurately collected and recorded explained	<ul style="list-style-type: none"> <li>Hand written notes taken on a pre-designed template</li> <li>No audio or video-recording by Government</li> <li>After reviewing Government notes, CIRCA has reservations about the recording of communities' priorities and the extent of support for views expressed</li> </ul>	2
Specific, time bound and verifiable benchmarks and indicators used to measure progress of proposals agreed	<ul style="list-style-type: none"> <li>No specific measures or proposals were included in Discussion Paper or discussed during consultation meetings and therefore, there was no discussion about how they might be measured</li> </ul>	0
Agreement reached about how feedback will be provided	<ul style="list-style-type: none"> <li>No feedback on content was promised, or details about the legislation. Promises to directly check records with participants before the report being sent to Canberra were not generally kept (notes sent to intermediaries)</li> </ul>	0
Power imbalances are addressed through adequate provision of resources to Aboriginal negotiators	<ul style="list-style-type: none"> <li>The Government set the agenda, decided which priorities would be discussed, prepared the scripts, asked the questions and set the timelines, no independent representation for locals .</li> <li>Format stressed Government's achievements up front with limited recognition of previous criticisms</li> </ul>	1
Sub total Consultation		11/45
<b>Post-consultation phase</b>		
Communities are informed about how the materials collected would be used in the development of the issue/proposal	<ul style="list-style-type: none"> <li>Feedback consisted of notes and flyers written in English, making general comments being given to Government Business Managers or Indigenous Engagement Officers</li> <li>No further meetings called to present findings or explain proposals in Bills</li> </ul>	2
Communities have ability to genuinely influence decision-making	<ul style="list-style-type: none"> <li>Timing suggests policy was set/decisions pre-determined. Unsurprisingly, the Government's report identifies communities' top priorities as the three issues that the Government said before the process were the most important</li> <li>Inadequate timeframe to comment on extremely complex Bills, especially for remote communities</li> <li>Stronger Futures Legislation introduced and passed through the House of Representatives whilst Communities still giving evidence to the Senate Committee inquiring on the Legislation.</li> </ul>	1
Sub total post consultation		3/10
<b>Total score</b>		<b>17/65 (26%)</b>

<b>SCORE</b>			
5	Excellent – clear equal partnership agreement from the beginning	2	Inadequate – Process one sided to suit Government agenda
4	Very good - serious commitment to joint engagement	1	Poor – tokenistic
3	Good – really trying to engage but room for improvement	0	No attempt to engage