

Budget Estimates: June 2024

Last updated: 16 May 2024

## The UN Declaration on the Rights of Indigenous People (UNDRIP)

**Handling Note:** Dep Sec DMG leads on Australia's international engagement on the UN Declaration on the Rights of Indigenous Peoples (UNDRIP). The National Indigenous Australians Agency (NIAA) is the lead agency on domestic First Nations policy, including domestic implementation of UNDRIP; and is coordinating the government's response to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) Inquiry into the application of UNDRIP in Australia.

### Key Messages

- Australia is committed to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- Australia (through DFAT) supports implementation of UNDRIP internationally, including through advocacy and written references in international resolutions.
- NIAA is the domestic lead on UNDRIP and gives it practical effect through policies and programs, including Closing the Gap.
- The Australian Government (led by NIAA) is considering the November 2023 report of the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) on the application of UNDRIP in Australia.

### NIAA and DFAT's portfolio responsibilities regarding UNDRIP

- **NIAA is the domestic lead on UNDRIP** and gives it practical effect through policies and programs, including Closing the Gap
  - questions about domestic implementation should be referred to NIAA.
- **DFAT leads Australia's international engagement on UNDRIP**, primarily through the multilateral human rights system.
- **DFAT and NIAA coordinate** to ensure that Australia is projecting its full identity in international representations and that our efforts are complementary.
- **Minister Burney led Australia's engagement at the UN Permanent Forum for Indigenous Issues in April, with support from Ambassador Mohamed**
  - This session focused on the implementation of the UN Declaration on Indigenous Issues
  - Australia underscored the important intersection between First Nations domestic and international policy, and how we share our national story.
- **s 33(a)(iii)**

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## What Australia/Ambassador for First Nations People has done to support UNDRIP internationally

- Australia regards UNDRIP as the **universally agreed framework for protecting and promoting the rights of Indigenous Peoples internationally**
- It provides important language and a framework for Australia to uphold and promote Indigenous rights abroad and to use as a basis for discussions to learn from others about best practice including implementation.
- The Ambassador for First Nations People has given practical effect to the principles of UNDRIP internationally, including by delivering national statements and advocating for language in international resolutions that supports its implementation. For example:
  - **Minister Burney and Ambassador Mohamed delivered national statements** on progress toward implementation of UNDRIP through Closing the Gap and enhanced Indigenous participation **at the UN Permanent Forum on Indigenous Issues (UNPFII) in April 2024.**
  - Ambassador Mohamed led practical change in the UN to enhance participation of Indigenous peoples resulting in a historic resolution in **October 2023 to establish a distinct status for Indigenous Peoples to register in select meetings of the Human Rights Council.**
- **DFAT and NIAA co-funded eight youth delegates** from across Australia to attend **UNPFII** in April 2024 to build knowledge of the United Nations and international networks.
- DFAT funded two new **First Nations Junior Professional Officer (JPO) Program** positions based in Geneva and New York to support career development opportunities for First Nations people while promoting Indigenous voices within the multilateral system.
- Australia contributed **\$50,000 in 2023-24 to the UN Voluntary Fund for Indigenous Populations**, supporting Indigenous representatives to attend UN sessions and have their voices heard.
- Ambassador Mohamed represents DFAT on the **Joint Working Group on Closing the Gap**, sharing lessons from our engagement on the implementation of UNDRIP that intersect our domestic and foreign policy.

## Australia's response to the JSCATSIA inquiry into the application of UNDRIP

- NIAA is coordinating the Government's response to the JSCATSIA's recommendations
  - questions on the report should be referred to NIAA
  - DFAT is considering the report in collaboration with NIAA.

## How UNDRIP benefits Aboriginal and Torres Strait Islanders domestically

- UNDRIP is an important human rights instrument and provides a roadmap for our shared journey of reconciliation
  - it sets out individual and collective rights of Indigenous Peoples, as well as rights to culture, identity, language, employment, health, education, and other issues

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## Why Australia hasn't ratified UNDRIP

- UNDRIP is a UN Declaration that does not have treaty status and therefore cannot be ratified under international law.
- Although UNDRIP is not a treaty-status, legally binding instrument, **it represents the development of international norms** designed to promote and protect the rights of Indigenous Peoples
  - it sets global standards to uphold the rights of Indigenous Peoples globally and is the strongest statement thus far by the international community.

## How Australia is held to account for implementation of UNDRIP

- The Special Rapporteur on the Rights of Indigenous People and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) within the Human Rights Council holds member states to account for implementation of the UNDRIP
  - it can also be raised by other States during Australia's Universal Periodic Reviews in the Human Rights Council.

## JSCATSIA UNDRIP Inquiry/Members Bill

The JSCATSIA inquiry was conducted in part due to the Members Bill put forward by Senator Lidia Thorpe to enshrine UNDRIP in Australian law. The Bill was defeated in December 2023. The Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) commenced an inquiry into the application of UNDRIP and finalised a report on 28 November 2023. The report does not recommend the same approach suggested in the Bill. The report notes that Australia is not legally bound by UNDRIP. As a matter of policy, Australia supports the Declaration and shares its underlying commitment to delivering sustainable improvements for First Nations peoples and communities. It outlines that there is no single or centralised mechanism for domestic implementation. The report notes several positive examples of UNDRIP implementation across Australian states and territories.

### JSCATSIA report recommendations

The report recommends minor legislative change, consultation towards a national action plan, progressing truth-telling, and working with the state and territory governments on new education content. NIAA will consider the report and coordinate the Government's response.

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| <b>Prepared by:</b><br>s 22(1)(a)(ii)<br>Mob: s 22(1)(a)(ii)      Ext: s 22(1)(a)(ii)<br>Date: 14 May 2024       | <b>Cleared by Branch Head:</b><br>Sally-Anne Henfry<br>Mob: s 22(1)(a)(ii)      Ext: s 22(1)(a)(ii)<br>Date: 14 May 2024 |
| <b>Consultation:</b> HRB, IAT (Climate Human Rights and Treaties Section) and NIAA.                              |  |
| <b>Cleared by FAS:</b> Lucas de Toca <b>Date:</b> 14 May 2024  |  |

## First Nations approach to foreign policy (including Ambassador)

**Handling Note:** NIAA leads on domestic First Nations policy. NIAA can comment on the domestic implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) through its policies and programs; and is coordinating the government's response to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) Inquiry into the application of UNDRIP in Australia (see separate briefs on UNDRIP and Indigenous rights).

- FSD [Kewalram] leads on overarching First Nations trade and investment issues. Austrade leads on First Nations tourism policy.
- OTP [Tattersall] leads on First Nations engagement in the Pacific.
- CFO [Medland] leads on budgetary allocation and Indigenous procurement generally.
- DPD [Wilde] leads on First Nations inclusion in the International Development Policy.
- PRD [Cohen] leads on First Nations inclusion in Indigenous procurement in the aid program.
- CPO [Casson] leads on First Nations recruitment, retention, and development.

### Key Messages

- The Australian Government is implementing a First Nations approach to foreign policy that projects Australia's shared and full identity: our modern diversity and the rich heritage of First Nations People.
- Australia's inaugural Ambassador for First Nations People, Mr Justin Mohamed, is leading the Office for First Nations International Engagement in the Department of Foreign Affairs and Trade
  - this ensures, for the first time, that Australia has dedicated Indigenous representation in our international engagement.
- The Office is working in partnership with Aboriginal and Torres Strait Islander people to identify areas for international cooperation
  - including trade and investment, intellectual property, climate change, human rights, health, and development.

### Funding for the Ambassador/Office for First Nations International Engagement

- The government established the Office with funding of \$13.6 million over four years commencing FY 2023-24
  - the Office is comprised of ten FTE staff, plus Ambassador Mohamed (contractor)
  - this is in addition to the 2022-23 Budget allocation of \$2 million over 2022-23 to 2023-24 to support the appointment of the Ambassador and the early engagement required to establish the Office.

### Implementing a First Nations approach to foreign policy

- A First Nations approach to foreign policy projects Australia's full identity; our modern diversity and the rich heritage of First Nations People.
- Since commencing in April 2023, the Ambassador for First Nations People has engaged over 100 stakeholders from across Australia to inform early priorities.

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- Ambassador Mohamed has demonstrated early outcomes toward implementing a First Nations approach to foreign policy, including:
  - **expanded First Nations trade and investment opportunities:** participated in an inaugural **APEC Ministerial Dialogue on Indigenous Trade in San Francisco in November 2023** to build consensus for an inclusive growth agenda; convened an inaugural **First Nations-led Australia – Aotearoa-New Zealand economic dialogue in Townsville in February 2024**, which committed to inclusive, sustainable, economic development for First Nations peoples from the region; led a **record delegation of 34 Aboriginal and Torres Strait Islander businesses to the US in March 2024**, to strengthen ties between First Nations and Native American peoples in trade and investment.
  - **promotion and protection of traditional knowledge intellectual property interests:** led Australia’s negotiations of a Genetic Resources and Associated Traditional Knowledge Treaty through the World Intellectual Property Organisation (WIPO) Diplomatic Conference in Geneva in May 2024
  - **enhanced participation of Indigenous Peoples in international forum:** contributed to the **historic UN Human Rights Council decision in October 2023** to establish a distinct status for Indigenous Peoples in HRC dialogues; promoted First Nations perspectives at COP28 in Dubai; **co-led Australia’s 2024 delegation the UN Permanent Forum for Indigenous Issues** and supported eight First Nations youth delegates to attend.

#### Priorities for the Office/Ambassador in 2024-25

- Establish a **pilot First Nations Trade and Investment Advisory Group** to ensure First Nations perspectives and interests are incorporated into policy and implementation.
- Develop a **public strategy (2024-2026)** to help guide implementation of a First Nations approaches to foreign policy.
- Design and launch a **First Nations Fellowships and Partnerships grants program** to lift the participation of First Nations people in international meetings and strengthen First Nations partnerships across the Indo-Pacific, especially the Blue Pacific (\$3.6 million over FY2024/25 – FY 2026/27).

#### A First Nations approach to foreign policy in the **Indo - Pacific**

- The rich and diverse culture of First Nations Australians resonates deeply with a diverse range of Pacific cultures.
- The shared historical kinship, cultural heritage, linguistic ties, and trade connections among First Nations peoples provide a solid foundation for building genuine relationships and initiating meaningful dialogues.
- Recognising these unique cultural bonds within the Blue Pacific, Ambassador Mohamed established connections with grassroots communities and senior government figures alike during inaugural bilateral visits to **Vanuatu and Papua New Guinea in 2023**.
- Ambassador Mohammed is supporting and advocating Indigenous interests in implementing ‘**Invested: Southeast Asia Economic Strategy to 2040**’, including opportunities to expand two-way First Nations trade and investment in Southeast Asia.

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## A First Nations approach to **trade and investment**

- DFAT and Austrade are working closely with First Nations businesses and international institutions to support First Nations trade and investment opportunities through a range of fora. Progress toward a First Nations approach to trade and investment include:
  - membership of the **pilot First Nations Trade and Investment Advisory Group** under active consideration
  - Austrade is facilitating the co-design of a **First Nations Visitor Economy Partnership**, with the National Indigenous Australians Agency and Tourism Australia, State and Territory Governments and First Nations tourism industry representatives. The most recent co-design workshop was held in early March 2024
  - Austrade has increased the number of First Nations businesses it works with through its programs and services since 2022-23.

## Work with First Nations women

- Ambassador Mohamed is committed to gender equality, values the role of First Nations women and has engaged, sensitively and respectfully, including:
  - participated in the Women, Peace, and Security forum in Canberra in November 2023, to amplify the lived experiences of women, and highlight the need for further research to enhance First Nations women's voices
  - convened a multilateral human rights roundtable in April 2024 to hear from expert First Nations women on opportunities and challenges in foreign policy
  - established a First Nations Steering Group in May 2024 comprised of expert First Nations women to develop a public strategy to implement the First Nations foreign policy.

## Ambassador's international travel in 2023-24

- In 2023, Ambassador Mohamed undertook six international visits totalling \$89,973.22, including to the United Nations Permanent Forum on Indigenous Issues (April), the Expert Mechanism on the Rights of Indigenous Peoples (July), Vanuatu Independence Day (July), PNG (October), World Indigenous Business Forum, Asia Pacific Economic Cooperation and UN Climate Change Conference (November).
- In 2024, so far, Ambassador Mohamed has undertaken three international visits, including:
  - a First Nations trade delegation to the US (March 2024), UNPFII (April 2024), and WIPO/Paris (May 2024).

## Supporting information - Questions on Notice

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- QoN 351 – 2023-24 Additional estimates – Senator Dorinda Cox – First Nations Policy – resources allocated to OFNIE.
- QoN 520 – 2023-24 Additional estimates – Senator Simon Birmingham– First Nations Policy – external funding for OFNIE.
- QoN 521 – 2023-24 Additional estimates – Senator Simon Birmingham– First Nations Policy – current status of the trade and intellectual property priorities.
- QoN 521 – 2023-24 Additional estimates – Senator Simon Birmingham– First Nations Policy – international travel undertaken by the First Nations Ambassador

**Recent Ministerial Comments**

- In a Press conference in Perth, on 9 February 2024 the Minister for Foreign Affairs said “How you engage with the world, your national power, starts with who you are in all of its diversity. Whether it's our First Nations heritage or our diversity ... that is a part of our national power, because it gives us common ground with so many of the world's people... you will see that power as part of our story.”

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| <p><b>Consultation:</b> SKB/FSD, GCB/LGD, NIAA<br/>                 Name: Type in Officer’s name.</p>   | <p>Date: 16 May 2024<br/>                 Mob    Ext: Type extension.</p>  |
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## Promotion of Indigenous rights internationally

**Handling Note:** Dep Sec DMG leads on Australia's international engagement on Indigenous rights including at the UN Permanent Forum for Indigenous Issues and the Expert Mechanism for the Rights of Indigenous Peoples (EMRIP). NIAA leads on policy development, program designs, and service delivery for First Nations people, including the National Agreement on Closing the Gap. NIAA is coordinating the government's response to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs Inquiry into the application of the UN Declaration on the Rights of Indigenous Peoples in Australia. The Western Australian (WA) government is responsible for responding to the report from EMRIP's expert mission to WA in October 2023. Questions related to national policy recommendations from EMRIP's report to be referred to Department of Social Services.

### Key Messages

- Australia's participation at the UN Permanent Forum on Indigenous Issues (UNPFII) and the EMRIP are cornerstones of our engagement to promote Indigenous rights internationally.
- Participation at these meetings advances Australia's objectives to promote the implementation of UNDRIP, share best practices, and enhance Indigenous participation in the UN/ international fora.
- EMRIP completed an expert visit to Western Australia in October 2023 to provide technical advice on the contemporary removal of Aboriginal children
- EMRIP has described the situation in Western Australia as "shocking"
  - the WA Government is responsible for responding to the report.

### EMRIP's country engagement visit to Western Australia

- The Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) delegation visited Western Australia from 1 – 10 October 2023 at the request of the Noongar Child Protection Council to:
  - provide technical advice on the contemporary removal of Aboriginal children from their families, and
  - advise on the implementation of the UN Declaration on the Rights of Indigenous People (UNDRIP), specifically in relation to the contemporary removal of Aboriginal children.
- EMRIP finalised the report and made it publicly available in May 2024.
- The WA State Government hosted the EMRIP visit and is responsible for responding to the report.
- DFAT is working with other federal government agencies including NIAA and DSS to consider the national policy recommendations from the EMRIP mission.
- The WA government will provide its response to the report for consideration at the July 2024 session of EMRIP.



## Connections between international and domestic rights advocacy

- Australia's participation at the UN Permanent Forum on Indigenous Issues (UNPFII) and EMRIP are cornerstones of our engagement to promote Indigenous rights internationally
  - Australia's participation at these meetings advances Australia's objectives to promote the implementation of UNDRIP, share domestic best practices, and promote Indigenous participation in the UN and international fora on matters affecting Indigenous Peoples.
- The Australian Government does not shy away from criticism of domestic policies and engages in discussion internationally on ways we can improve our record on Aboriginal and Torres Strait Islander issues.
- National statements delivered at UNPFII in April 2024 by the Minister for Indigenous Affairs and Ambassador for First Nations People underscore the Australian Government commitment to work in partnership with Indigenous communities to address challenges and ensure the effective implementation of UNDRIP through the National Agreement on Closing the Gap.

## Hosting a pre-sessional meeting of the UN Permanent Forum for Indigenous Issues (UNPFII)

- Australia is committed to engaging on Indigenous issues through UNPFII
  - It is the preeminent meeting to discuss Indigenous interests.
- Australia will consider hosting a pre-sessional meeting in future years.
- Australia hosted a First Nations multilateral and human rights roundtable with First Nations Australians prior to UNPFII to ensure engagement is in line with community expectations.

## Background

### International cooperation

Australia progresses First Nations policy objectives through our engagement in UN mechanisms, including:

- Human Rights Council (HRC) (March, June, September, in Geneva)
- UNPFII (April, in New York)
- EMRIP (July, in Geneva), and
- the UN General Assembly (UNGA) Third Committee (October-November, New York).

In advancing our foreign policy objectives, we work closely with NIAA and:

- likeminded countries (including Canada, the US, NZ and other members of the 'Western European and Others Group' (WEOG)).

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## EMRIP Visit to WA

The country engagement visit by EMRIP to Western Australia in October 2023 included two expert members of EMRIP. The visit gathered information about existing procedures already in place or being established to address the removal of Aboriginal and Torres Strait Islander children from their families, identified barriers to UNDRIP implementation and the rights to self-determination, and provided technical advice to the WA Government on the implementation of the Declaration, in relation to the contemporary removal of Aboriginal children. EMRIP finalised their report and made it publicly available in May 2024. The report will be discussed at the annual session of EMRIP in July 2024. Hosting of the visit was led and coordinated by the WA State Government with coordination oversight by NIAA and DFAT.

## Sensitivities

Dr Hannah McGlade delivered statements at EMRIP and UNPFII in her capacity as independently elected member of UNPFII. Dr McGlade said that significant barriers remained for First Nations Australians to participate in UN mechanisms. She said that due to a lack of funding support from the Australian Government, she was unable to execute her role effectively as UNPFII representative for the Asia-Pacific. Dr McGlade also said she supported the EMRIP country visit to WA to address systemic discrimination and violence against women and children.

## Media

The National Indigenous Times reported on 7 May that the United Nations had deemed too many Aboriginal children were coming into contact with the criminal justice system and being removed from their families in Western Australia. Hannah McGlade said that “We must address the crisis of Aboriginal child removal, especially in the wake of a child's death, the rights of Aboriginal children and a culturally safe and trauma informed response have to be at the heart of child protections. Sadly this is not the case” in reference to the UN EMRIP Country report on WA.

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| <b>Consultation:</b> NIAA  |  |
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## Role and costs of Ambassador and OFNIE including travel

**Handling Note:** DFAT's CFO [Medland] leads on budget allocation and Indigenous procurement.

### Key Messages

- International engagement by the Ambassador for First Nations People supports **DFAT's strategic priorities to embed First Nations perspectives into Australia's Foreign Policy**.
- This has elevated First Nations trade and investment opportunities, strengthened human rights resolutions and supported partnerships with our closest neighbours in the Pacific.
- This is consistent with the **National Agreement on Closing the Gap**.
- Regular travel is required to discharge The Ambassadors internationally focused duties.
- The Ambassador's international travel is **undertaken within government guidelines**.

### Funding for the Ambassador/Office for First Nations International Engagement

- The inaugural Ambassador for First Nations People was appointed on 7 March 2023
  - The Ambassador provides the Australian Government dedicated First Nations representation in our international engagement for the first time.
- The Office for First Nations International Engagement (OFNIE) was established in December 2023 with **funding of \$13.6 million over four years commencing FY 2023-24**
  - OFNIE has ten ASL staff (currently 8 incumbent), plus the Ambassador (contractor)
- This is in addition to the Budget allocation of \$2 million (2022-23 to 2023-24) to support the appointment of the Ambassador and early engagement to establish the Office.

### Ambassador's international travel costs

- In 2023/24 Ambassador Mohamed's international travel costs were \$145,924.48.
- Regular travel is required to discharge the Ambassador's internationally-focused duties and
  - elevates Australia's trade and investment opportunities
  - strengthens human rights resolutions at UN forums
  - supports deeper partnerships with our closest neighbours in the Pacific.
- The **Ambassador's travel is undertaken within government guidelines** regarding cost and entitlements, and with the approval of the department, in line with normal procedures.
- In 2023/24, the Ambassador undertook six international visits totalling \$145,924.48

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1. New York - United Nations Permanent Forum on Indigenous Issues (UNPFII) (April 2023)
2. Geneva - Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) (July 2023)
3. Vanuatu - Independence Day (July 2023)
4. PNG - the World Indigenous Business Forum (October 2023)
5. San Francisco - Asia Pacific Economic Cooperation (APEC) (November 2023)
6. Dubai - UN Climate Change Conference (COP28) (November 2023).
7. USA - leading a First Nations trade delegation (March 2024)
8. New York - UNPFII (April 2024)
9. Geneva and Paris - WIPO and UNESCO meetings (May 2024)
10. USA (Hawaii) – Pacific Festival of Culture and the Arts (FestPAC) (June 2024)

. In 2024/5, the Ambassador has undertaken nine international visits to date

1. Geneva - EMRIP (July 2024)
2. Fiji - the PIFS Foreign Ministers Meeting (August 2024)
3. Solomon Islands - Australia Solomon Islands Business Forum (September 2024)
4. Republic of Marshall Islands - Manit (Culture) Day (September 2024)
5. Tuvalu - Independence Day (October 2024)
6. USA – as of today, (7 November) the Ambassador is in Los Angeles representing Australia at the Repatriation Ceremony of ancestral remains of fourteen First Nations people, being returned from four museums.
  - : The Ambassador also represented Australia at the World Indigenous Business Forum (WIBF), the Native American Business Association annual meetings, and was part of the handover of WIBF to the Kinaway Chamber of Commerce, who will host the event in Melbourne in 2025.

**The Pacific is a priority** – the Ambassador has **strengthened partnerships and collaboration across climate change, trade and investment and development in six Pacific countries** - PNG, Vanuatu, Fiji, Solomon Islands, Marshall Islands and Tuvalu.

### Cost of the Ambassador

- . The Ambassador is engaged as a sole trader (contractor) equivalent to the SES Band 2 classification. The contract is publicly available on AusTender.
- The total value of the two-year contact is **\$759,150.00**

### Recent Ministerial Comments

The Minister for Foreign Affairs said the Ambassador for First Nations People and his team had delivered results at a press conference in New York on Tuesday 24 September.

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The Minister for Indigenous Australians, the Hon Malarndirri McCarthy in a TV interview on 23 September said that *“we're certainly very pleased to have Ambassador Mohamed travelling the world, in terms of helping First Nations businesses and trade internationally. We have incredible business opportunities that he's been able to work with, but also with our Pacific neighbours, Tom. One of the things that our country does is obviously assist in Fiji, Papua New Guinea, in Vanuatu. So, working with, at that level, from First Nations to Indigenous people in those areas, has also been important, and I've had that opportunity to meet with them as well”*.

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## The UN Declaration on the Rights of Indigenous People (UNDRIP)

### Handling Note:

NIAA leads on domestic First Nations policy, including domestic implementation of UNDRIP, and is coordinating the government's response to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs (JSCATSIA) Inquiry into the application of UNDRIP in Australia.

### Key Messages

- Australia is committed to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- NIAA is the domestic lead on UNDRIP and gives it practical effect - DFAT leads Australia's international engagement on UNDRIP.
- Australia supports implementation of UNDRIP internationally and has demonstrated leadership through successful advocacy on enhancing participation of Indigenous Peoples in UN mechanisms.
- The \$3.6 million three-year (24/25 to 26/27) First Nations International Fellowships and Partnerships Grants program will bring a transparent and accountable approach to increasing participation of Aboriginal and Torres Strait Islanders in global fora.

### NIAA and DFAT's portfolio responsibilities regarding UNDRIP

- NIAA is the domestic lead on UNDRIP and gives it practical effect through policies and programs, including Closing the Gap
  - Questions about domestic implementation should be referred to NIAA.
- The JSCATSIA inquiry into the application of UNDRIP in Australia was conducted in part due to the Members Bill put forward by Senator Lidia Thorpe to enshrine UNDRIP in Australian law. The Bill was defeated in December 2023.
  - The JSCATSIA commenced an inquiry into the application of UNDRIP and finalised a report on 28 November 2023.
  - The government is carefully considering the report and its recommendations.
- DFAT leads Australia's international engagement on UNDRIP, primarily through the multilateral human rights system.
- DFAT and NIAA coordinate to ensure that Australia is projecting its full identity in international representations and that our efforts are complementary.

### How UNDRIP benefits Aboriginal and Torres Strait Islanders domestically

- Australia regards UNDRIP as the universally agreed framework for protecting and promoting the rights of Indigenous Peoples internationally.

- **UNDRIP is an important human rights instrument**
  - it sets out individual and collective rights of Indigenous Peoples, as well as rights to culture, identity, language, employment, health, education, and other issues.
- **An example of how UNDRIP can benefit communities in Australia**
  - is through the Australian Government's response to Expert Mechanism for the Rights of Indigenous People (EMRIP) expert visit to Western Australia in 2024
    - : **The response resulted in increased investment in Aboriginal community organisations in WA, directly supporting First Nations communities.**
  - The Ambassador hosted the first ever DFAT roundtable on **connections between Australia's domestic reconciliation journey and Indigenous rights and interests at the UN (April 2024).**

### How Australia/Ambassador for First Nations People advances Indigenous Rights globally

- Australia has enhanced participation of Indigenous People in UN meetings through the Ambassador's efforts contributing to the historic decision by the UN Human Rights Council **to establish a distinct status for Indigenous Peoples' accreditation to HRC dialogues** (October 2023).
- With this decision, **Indigenous Peoples participated in their own right for the first time in a Human Rights Council regular session** during the interactive dialogues with the Special Rapporteur on the rights of Indigenous Peoples and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) (October 2024).
- OFNIE has **launched a First Nations International Fellowships and Partnerships Grants Program** (\$3.6 million over three years) **to fund participation of Aboriginal and Torres Strait Islanders in global fora** and strengthen First Nations partnerships across the Indo-Pacific (October 2024).
- The Ambassador led DFAT delegations to the **United Nations Permanent Forum for Indigenous Issues (UNPFII) and EMRIP in 2023 and 2024** demonstrating Australia's leadership role as a supporter of Indigenous rights.
- DFAT's Office for First Nations International Engagement **supported 15 First Nations Australians to represent their communities in these international forums** to strengthen First Nations rights, build a pipeline of leaders, and bring benefits back to community.
- The Ambassador promoted First Nations perspectives at COP28 in Dubai, which included a record attendance by Aboriginal and Torres Strait delegates (November 2023)

### Why Australia hasn't ratified UNDRIP

- UNDRIP is a UN Declaration that does not have treaty status and therefore cannot be ratified under international law.
- Although UNDRIP is not a treaty-status, legally binding instrument, it represents the development of international norms designed to promote and protect the rights of Indigenous Peoples
  - it sets global standards to uphold the rights of Indigenous Peoples globally and is the strongest statement thus far by the international community.

### How Australia is held to account for implementation of UNDRIP

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- **The Special Rapporteur on the Rights of Indigenous People and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) within the Human Rights Council** holds member states to account for implementation of the UNDRIP
  - it can also be raised by other States during Australia's Universal Periodic Reviews in the Human Rights Council.

|   |   |
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## First Nations approach to foreign policy (including Strategy)

**Handling Note:** NIAA leads on domestic First Nations policy

### Key Messages

- First Nations diplomacy is a powerful element of our international engagement and supports our and our region's security and prosperity.
- This is the first time the Australian Government has had dedicated First Nations representation in our international engagement.
- This approach amplifies and strengthens our foreign policy, delivering strategic, trade and multilateral results for all Australians, including Aboriginal and Torres Strait Islanders.
- DFAT is developing a strategy for a First Nations approach to foreign policy, informed by consultations with over 100 First Nations stakeholders and 40 years of DFAT's work.
- The strategy is consistent with the National Agreement on Closing the Gap.

### Why a First Nations approach to foreign policy is important

- Australia's First Peoples have a crucial role to play in projecting Australia's modern diversity and rich heritage to the world.
- The 65,000 years of Aboriginal and Torres Strait Islander culture, the oldest continuous culture in the world, is a powerful platform
  - to share and learn from First Nations experiences
  - to build common ground with the 90 nations with Indigenous Peoples
  - to deepen our international engagement, particularly in our region.

: at a time of 'perpetual competition' building deeper partnerships in the Pacific is more important than ever.
- Developed in partnership with First Nations communities, this approach will help ensure that First Nations communities are supported to participate in, and benefit from, Australia's international engagement
  - consistent with the National Agreement on Closing the Gap.

### Developing a strategy for a First Nations approach to foreign policy – *Inside Policy*

- A strategy will ensure for the first time that Australia will have a dedicated First Nations approach to reflecting our modern diversity and rich heritage to the world
  - delivering results for all Australians, including Aboriginal and Torres Strait Islanders.

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- A strategy will build on 40 years of DFAT's work to include First Nations interests in foreign policy
  - e.g. DFAT's Indigenous Diplomacy Agenda (2021) and five Reconciliation Action Plans
- A strategy will canvass the broad remit of DFAT's engagement and focus on how we bring First Nations people and interests into Australia's foreign policy.
- A strategy will not be a parallel piece of foreign policy
  - there is only one Australian foreign policy.
- We are committed to a strategy that is evidence-based and includes knowledge and insights from First Nations leaders, businesses, and communities across Australia
  - holding consultations with over 100 First Nations stakeholders since April 2023.
- 100% Aboriginal owned firm *Inside Policy* has been contracted to support the strategy
  - The value of the contract is \$266, 200.00 as published on AusTender.

#### Achievements of a First Nations approach to trade and investment

- We are engaging in genuine partnership with the First Nations business sector to progress the Government's commitment to an international trade and investment agenda that drives economic growth for all Australians, including First Nations people
  - The opportunities are there - First Nations goods exporters
    - : generated over \$670 million in turnover in 2022-23
    - : grew in number by 12% per year over the past five years
    - : (from First Nations Businesses Succeeding Internationally, Aug 2024)
  - the approach has expanded two-way First Nations trade and investment in South East Asia and North America.

| When       | Where | Key trade and investment achievements  |
|------------|-------|--|
| Nov 2023   | USA   | <b>Consensus reached at the APEC Ministerial Dialogue</b> on Indigenous Trade to build an <b>inclusive growth</b> agenda.  |
| Feb 2024   | NZ    | Held the <b>inaugural Aotearoa-New Zealand Economic Dialogue for cooperation on Indigenous Trade</b> .   |
| March 2024 | USA   | Led the <b>largest First Nations delegation of over 30 people to the US, in partnership with First Nations business chambers and the Victorian Govt</b> , to develop export readiness networks. The visit created: <ul style="list-style-type: none"> <li>– <b>A MOU between Victorian and the Kansas Chambers of Commerce</b> on First Nations trade and investment opportunities</li> <li>– <b>A Kansas Senate resolution to grow opportunities with Australia.</b></li> <li>– <b>A new partnership with Indigenous-owned Akana Mills Pty Ltd</b></li> <li>– A further venture is forthcoming</li> </ul> |

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|           |        |   |
|-----------|--------|---|
| May 2024  | Geneva | Concluded <b>negotiation of historic Genetic Resources and Associated Traditional Knowledge Treaty</b> through the World Intellectual Property Organisation, strengthening the protection of Traditional Knowledge. |
| Sept 2024 | UAE    | Concluded negotiations for <b>UAE CEPA, which includes Australia's first ever standalone First Nations chapter in a free trade agreement</b>  |
| Ongoing   | SEA    | Implementing the Southeast Asia Economic Strategy, including opportunities to expand two-way First Nations trade.   |

### Achievements – Indigenous Rights

- First Nations rights have been strengthened through a First Nations approach to foreign policy, including the creation of a separate category for Indigenous Peoples to register in UN meetings in their own right – separate to Government, Civil Society, NGOs.

| When      | Where      | Key Indigenous Rights achievements  |
|-----------|------------|---|
| May 2023  | Geneva     | Concluded an unprecedented <b>resolution to strengthen Indigenous Peoples Health at the 76th session of the World Health Assembly.</b>          |
| Oct 2023  | Geneva     | Concluded historic UN Human Rights Council decision to establish a <b>distinct status for Indigenous Peoples' accreditation in HR meetings.</b> |
| Oct 2024  | Australia  | Launched the <b>first practical mechanism to fund participation of Indigenous People in foreign affairs</b> via a Grants Program (\$3.6 m).     |
| 2023,2024 | Geneva, NY | Supported <b>15 First Nations Australians to attend 2023 and 2024 UNPFII and EMRIP</b> to strengthen rights and build a leader's pipeline.      |
| Nov 2023  | UAE        | <b>Record First Nations attendance at COP28</b> , to highlight importance of Indigenous knowledge and science in addressing climate change.     |

### Achievements – Pacific engagement

- First Nations diplomacy is a powerful element of our Pacific engagement** opening new, deep connections based on familial, religious, cultural, trade and historical ties.
- The **Ambassador's engagements in six Pacific countries (and Hawaii)** - PNG, Vanuatu, Fiji, Solomon Islands, Marshall Islands and Tuvalu – and substantial engagement with Pacific leaders in Australia **has generated genuine dialogue on shared challenges** across climate change, trade and investment, human rights and development.

| Timing    | Where          | Key Pacific achievements   |
|-----------|----------------|--|
| July 2023 | <b>Vanuatu</b> | Created cultural links, including with the Torres Strait, at the Melanesian Arts Festival                                      |
| Oct 2023  | <b>PNG</b>     | Strengthened government and First Nations people to people dialogue at <b>World Indigenous Business Forum</b>                  |
| June 2024 | <b>Hawaii</b>  | Connected with 25 Pacific leaders at the <b>Festival of Pacific Arts and Culture (FestPAC)</b>                                 |
| Aug 2024  | <b>Fiji</b>    | Attended <b>Pacific Islands Forum Foreign Ministers Meeting</b> , with FM Wong, meeting <b>Fiji's Great Council of Chiefs.</b> |
| Aug 2024  | <b>Garma</b>   | Co-led <b>delegation of Pacific leaders</b>  |

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|           |                         |   |
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| Sept 2024 | <b>Solomon Islands</b>  | Delivered the <b>keynote at the Australia Solomon Islands Business Forum</b> , alongside Solomon Islands' PM Manele |
| Sept 2024 | <b>Marshall Islands</b> | Delivered remarks at Manit (Culture) Day on the invitation of the Minister for Culture and Internal Affairs.        |
| Oct 2024  | <b>Tuvalu</b>           | Delivered remarks <b>at Independence Day – on invitation of Tuvalu's PM Feleti</b> .                                |

### Recent Ministerial Comments

The Minister for Foreign Affairs, the Hon. Penny Wong, in Australia's national Statement to the United Nations General Assembly on 28 September, said that *"First Nations' people's deep knowledge must be preserved and protected. Australia's Aboriginal and Torres Strait Islander peoples have been innovators, inventors and knowledge-holders for over 65,000 years. Whether it is firestick farming used to sustainably manage Country, or the engineering of great stone fish traps across rivers and seas. That unbroken line of innovation has continued to this day"*. [National Statement to the United Nations General Assembly | Australian Minister for Foreign Affairs \(foreignminister.gov.au\)](#)

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## First Nations – Role of Ambassador

### Key Messages

- First Nations diplomacy is a powerful element of our international engagement and supports security and prosperity in our region.
- The Ambassador for First Nations People is delivering results for all Australians, including Aboriginal and Torres Strait Islander communities.
- This is the first time the Australian Government has had dedicated First Nations representation in our international engagement – elevating the voices of First Nations People in our foreign policy and trade agenda.
- This supports the Government’s domestic agenda and the National Agreement on Closing the Gap.

### What is the Ambassador actually achieving?

- The Ambassador’s role embeds First Nations perspectives in Australia’s foreign policy through dedicated Indigenous representation
  - First Nations’ knowledge, experiences and people-to-people links are a unique strength of Australia’s engagement with the world.
- In particular, the Ambassador’s work is a powerful element of our engagement with the Pacific.
  - the Ambassador has forged unique connections with the Pacific, based on shared familial, cultural, trade and linguistic ties with First Nations Australians
  - he has built relationships with Fiji’s Great Council of Chiefs and leaders in Vanuatu, the Marshall Islands, Tuvalu, and Papua New Guinea
- These First Nations ties in our region are a national strength, opening new lines of communication to build understanding of our interests with our closest partners

### Is the Ambassador developing separate First Nations foreign policy?

- As I (*Secretary Adams*) have said previously, there is no parallel First Nations foreign policy
  - there is only one Australian foreign policy, which is set by the Government.
- Formulating and implementing foreign policy to advance Australia’s national interest involves input from a diverse range of perspectives.

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- in an increasingly contested environment, we are bringing every asset in our diplomatic toolkit to the table.

## How can you justify the cost of the Ambassador and his office?

- The Ambassador and Office for First Nations International Engagement are delivering results for all Australians, including Aboriginal and Torres Strait Islander communities
  - Establishing for the first time a distinct status for Indigenous Peoples accreditation to Human Rights dialogues
    - : which is strengthening the participation of Indigenous Peoples in the United Nations.
  - Concluding the historic Genetic Resources and Associated traditional Knowledge Treaty at the World Intellectual Property Organisation,
    - : which is expanding First Nations business opportunities in free trade agreements and helping to protect Indigenous intellectual property.
  - Unlocking trade and investment opportunities for First Nations Australians in the USA, South East Asia and New Zealand
    - : helping to meet the National Agreement on Closing the Gap.

## Background

The inaugural Ambassador for First Nations People was appointed in March 2023, and the Office for First Nations International Engagement was established in December 2023, funded for \$13.6 million over four years.

## Building partnerships and addressing shared challenges in the Pacific

- The Ambassador has established connections with grassroots communities and senior government figures across the Pacific including:
  - undertaking official programs to Vanuatu, Papua New Guinea, Fiji, Solomon Islands, the Republic of Marshall Islands and Tuvalu
  - co-hosting a Pacific delegation to the August 2024 Garma Festival.

## Strengthening First Nations trade and investment opportunities

- The Ambassador has created significant momentum in Australia's inclusive trade agenda, including through:

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- the inaugural APEC Ministerial Dialogue on Indigenous Trade in November 2023
- a First Nations-led economic dialogue with New Zealand in February 2024
- concluding the historic Genetic Resources and Associated Traditional Knowledge Treaty at the World Intellectual Property Organisation in May 2024
- Australia’s first dedicated chapter on First Nations Trade in the Australia-United Arab Emirates Comprehensive Economic Partnership Agreement.

### Advancing Indigenous Rights globally

- . The Ambassador has led delegations in support of the UN Declaration on the Rights of Indigenous Peoples, including:
  - the UN Permanent Forum on Indigenous Issues (UNPFII)
  - the Expert Mechanism on the Rights of Indigenous People (EMRIP), and the response to the EMRIP expert visit to Western Australia
  - the UN Human Rights Council (HRC) where Australia’s advocacy helped establish a distinct status for Indigenous Peoples’ accreditation to HRC dialogues
- : A new DFAT First Nations International Grants Program has now been launched to support Indigenous delegations to UNPFII and EMRIP.

### Supporting the domestic agenda

- . The Ambassador has consulted with more than 100 First Nations leaders, communities and organisations across every Australian state and territory since April 2023.
- . Developing a First Nations approach to Foreign Policy supports Closing the Gap Priority Reform One; Outcomes Eight (economic participation) and 14 (social wellbeing).

### Supporting information

#### Freedom of Information (FOI) Requests

- . FOI requests received from June through September 2024 s 47F(1)

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- LEX11020 related to cost and members of Australia’s Delegation to the United Nations Permanent Forum on Indigenous Issues held in April 2024
- LEX 11252 related to documents related to costs for all overseas travel for First Nations Ambassador - Mr Justin Mohamed from 3 April 2023 to 30 June 2024
- LEX 11310 related to costs of delegation to UN Climate Change Conference (COP 28) in Dubai November-December 2023. Yet to be released to applicant
- LEX 11462 related to costs and members of Australia’s Delegation to the United Nations Permanent Forum on Indigenous Issues held in April 2023.

### Recent Ministerial Comments and Relevant Media Reporting

- . On Saturday 28 September, Foreign Minister National Statement to the United Nations General Assembly in New York
  - acknowledges the Ambassador’s success in bringing countries together to finalise the World Intellectual Property Organization Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge.
- . On 24 September 2024, Ministers Wong and McCarthy replied with media statements
  - Minister Wong – “First Nations diplomacy is a powerful element of our engagement with the Pacific given the strong First Nations cultural and historical connections with our region. It is one of the ways we are rebuilding our relationship with the Pacific family after Mr Dutton and the Liberals disrespected Pacific leaders and neglected Pacific priorities over nine long years, leaving a vacuum for other countries to fill"
  - Minister McCarthy – The Ambassador “was helping First Nations businesses and trade internationally. We have incredible business opportunities that he's been able to work with, but also with our Pacific neighbours."
- . On 23 September 2024, the Daily Telegraph published an article based on the Freedom of Information release of travel expenses incurred by the Ambassador
  - In an interview with 2GB Radio the Opposition Leader said he would “abolish the position on his first day if elected” and that it was “a complete waste of money”

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- This prompted 125 media mentions from 23 – 24 September criticising the role and the cost of travel during the “cost of living crisis” and that it was diverting funding better spent on closing First Nations social and economic welfare gaps.
- Between 16-18 October 2024, three articles were published criticising DFAT’s development of a strategy for a First Nations approach to foreign policy
  - saying that post-Voice referendum, it did not align with Australian public views on Indigenous policy and would weaken Australia’s foreign policy

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