



12 July 2021

Andrea Pelliconi and Ana Zbona
Business and Human Rights Resource Centre

Dear Andrea and Ana,

I wanted to sincerely thank you for your email on 29 June 2021 in which you invited BHP to comment on certain aspects of the report, “The UN Guiding Principles on Business & Human Rights and Indigenous Peoples Progress achieved, the implementation gap and challenges for the next Decade” dated June 2021 (the **Report**). We welcome the opportunity to provide these comments. As requested in your email, our comments focus on the recommendations for enterprises set out on pages 58-59 of the Report. We appreciate and commend the manner in which the Business and Human Rights Resource Centre has collaboratively approached feedback on this important work.

Policy Commitments and Benefit-Sharing

Most of our operations are located on or near lands traditionally owned by or under the customary use of Indigenous peoples. We embrace the opportunity to establish respectful, long-lasting partnerships through which we seek meaningful engagement, trust, mutual benefit and genuine understanding of the views and interests of Indigenous peoples.

Our approach to working with Indigenous peoples is underpinned by our global policies, which include our [Human Rights Policy Statement](#), the [Our Requirements for Community Standard](#), the [Indigenous Peoples Policy Statement](#) and the [Indigenous Peoples Strategy](#).

Our Indigenous Peoples Strategy has four pillars:

- *Governance*: Indigenous peoples will derive significant and sustainable benefit from BHP operations through the effective governance and management of land access, cultural heritage management, agreement making and benefit distribution processes.
- *Economic empowerment*: BHP will contribute to the economic empowerment of Indigenous peoples through investment, which provides opportunities for employment, training, procurement and Indigenous enterprise support.
- *Social and cultural support*: BHP will contribute to improved quality of life for Indigenous peoples through voluntary social investment, support for reinforcement and promotion of Indigenous culture and building the Indigenous cultural awareness of our workforce.
- *Public engagement*: BHP will contribute to specific initiatives, programs and public policy processes, which advance the interests of Indigenous peoples consistent with the BHP Indigenous Peoples Policy Statement.

As part of our work in furtherance of our Indigenous Peoples Strategy, we are continually engaging with Indigenous peoples, their representative bodies and other organisations working in Indigenous affairs to strengthen our partnerships. In Australia, we also work to apply BHP’s policies and practices in relation to Aboriginal and Torres Strait Islander peoples in a manner consistent with our Indigenous Peoples Strategy through our fifth [Reconciliation Action Plan](#).

Human Rights Processes

The recommendations in the Report refer to the importance of human rights due diligence and human rights impact assessments (**HRIA**). We believe that HRIAs are an important mechanism through which we can identify, seek to prevent and mitigate adverse human rights impacts, including in relation to Indigenous peoples. HRIAs and other human rights due diligence also help BHP to identify new opportunities to respect human rights and support dialogue with stakeholders about BHP's human rights impacts and contributions.

Our policies and standards require operated assets to complete a HRIA at least every three years, and also to review HRIAs whenever there are changes that may affect the impact profile. All HRIAs must include engagement with rights holders and stakeholders to enable a more complete understanding of any actual or potential human rights threats and opportunities.

Free Prior and Informed Consent (FPIC)

Our approach to FPIC is set out in BHP's [Indigenous Peoples Policy Statement](#) and [Indigenous Peoples Strategy](#). The measures envisaged in this approach include social and environmental impact assessments for projects affecting Indigenous peoples, seeking to agree and document engagement and consultation plans with potentially impacted Indigenous peoples, and seeking, through good faith negotiation, to reach agreements with Indigenous peoples which deliver sustainable improvements in their economic, social and cultural wellbeing.

In relation to agreement making, we support the view that agreement-making processes should include efforts to seek to ensure that the conditions to facilitate free, prior and informed consent of Indigenous peoples are in place. This includes rights-centred agreements and dispute resolution mechanisms, adequate time and resourcing, freedom from undue pressures, and the assurance of Indigenous peoples' participation through their own representative institutions.

We recognise that the concepts and application of FPIC are a critical and dynamic space, and that FPIC is not a static concept. We are engaging in conversations with the Indigenous peoples on whose country we operate to better understand how we can work together to ensure that FPIC is achieved and verifiable at each stage of our operations, from mine planning to operations to closure.

General observations

We endeavour to treat all stakeholders with respect, and to establish open, honest relationships with them built on trust. This helps us achieve a clear understanding of the context and impacts of our activities and informs how we can make a meaningful contribution to economic and social development. We recognise that our activities impact on Indigenous peoples and we are committed to working together to ensure BHP is an enabling partner with Indigenous peoples and that we positively contribute to the realisation of the rights of Indigenous peoples. Central to this are the voices of Indigenous peoples connected to the regions where we work. We support the ambitions of Indigenous peoples to have a greater voice in the discussions and decisions that affect and are important to them at a local and national level.

We have also observed that the employment, procurement, royalties and other socio-economic activities from resources development, if effectively delivered, are powerful mechanisms to enable agency and self-determination. In turn, we believe that our organisation is enhanced when it is properly informed by the views of the Indigenous people who hold rights in relation to our operations.

For more information on BHP's Policies as they relate to Indigenous peoples, please visit <https://www.bhp.com/sustainability/community/indigenous-peoples/>.

While we are proud of our progress in this space, we recognise that there is always more that we can do, and that processes such as these and organisations such as yours are making an important contribution to the standards that are rightly evolving in this space.

We thank the Business and Human Rights Resource Centre again for the opportunity to comment. If you would like further information in relation to these matters, please let us know.

George Wright.

Group Global Corporate Affairs Officer