



Towards Sustainable Mining



Indigenous and Community Relationships Protocol



MINING AND INDIGENOUS PEOPLES – AUSTRALIAN FRAMEWORK

Preamble

Many companies and First Nations communities have built enduring, respectful and mutually-beneficial partnerships. For decades industry has worked to support community social and economic aspirations, especially for young people and for people to work on country. Mining is proud that today a higher proportion of Indigenous Australians choose to work in mining than most other sectors, its strong relationship with the Indigenous business sector and contribution to Indigenous community wealth for future generations.

Framework

Towards Sustainable Mining (TSM) Guiding Principles have direct applicability to the relationship between mining companies and Indigenous peoples worldwide.

Industry and Indigenous landholders and communities share a common interest in ensuring that mining activity takes place safely and responsibly, in a manner that is respectful and supportive of community interests, cultures, heritage and the environment and creates economic opportunity.

As outlined in the [Minerals Industry Statement on First Nations Partnerships](#), MCA members recognise the importance of operating in a way that respects local cultures and knowledge, protects heritage and supports the near and long-term social and economic aspirations, prosperity and wellbeing of Indigenous Australian landholders and communities.

Through TSM, MCA member companies will demonstrate and further improve systems and processes that underpin strong partnerships with Indigenous Australian landholders and communities. MCA member companies are committed to:

- Respect the culture, knowledge, histories, rights and interests of the diverse Indigenous landholders and communities with which it partners and seek to understand local perspectives.
- Acknowledge, respect and collaborate to enable the cultural, social, economic environmental interests, aspirations and rights of Indigenous peoples;
- Engage with Indigenous landholders and communities, in accordance with the TSM Guiding Principles, to develop open, respectful and effective relationships throughout the mining lifecycle.
- This includes:
 - Basing relationships on respect for Indigenous peoples' culture, values and aspirations, and sharing the company's objectives, operations and practices
 - Undertaking early, timely and culturally-appropriate engagement with Indigenous peoples, including before exploration and during the environmental assessment process, to ensure their interests in a project and its potential impacts and opportunities are understood
 - Aiming to obtain the Free, Prior and Informed Consent (FPIC) of directly affected Indigenous peoples before proceeding with new projects or expansions where impacts to rights may occur
 - Recognising Indigenous cultural and ecological knowledge and connections to minimise or mitigate potential adverse environmental and social impacts and enhance benefits of mining and related activities
 - Robust cultural heritage protection processes, informed by pre-development surveys and arrangements, co-developed and monitored with Indigenous landholders and custodians, including arrangements for ongoing access to country

- Developing land use agreements and/or partnerships with Indigenous landholders and communities where appropriate to document consent, enable participation and contribute to local aspirations
- Partnering with communities and governments to enable Indigenous-led and collaborate to support local aspirations and priorities, including culture, health and wellbeing, training, business and employment and community development priorities
- Enabling Indigenous Australian involvement in environmental monitoring, closure planning and rehabilitation and other environmental activities that may be of interest to them
- Providing Indigenous peoples with equitable access to opportunities with the company
- Implementing company policies and systems that support these commitments and requiring suppliers of goods and services to the industry to do the same
- Facilitating ongoing dialogue and review processes, incorporating review of progress against separate and shared commitments and working together to improve outcomes.

INDIGENOUS AND COMMUNITY RELATIONSHIPS PROTOCOL

Purpose

The purpose of the assessment protocol is to provide guidance to facilities in completing evaluation of Indigenous and community relationships performance systems against TSM indicators. It sets out the general expectations for systems and processes that support respectful Indigenous and Community relationships.

This protocol supports implementation of the *Mining and Indigenous Peoples – Australian Framework* and the [Minerals Industry Statement on First Nations Partnerships](#).

As with any management system, professional judgement is required in assessing indicator implementation and management processes and intervention quality.

Protocol application requires expertise in auditing, systems assessment, and knowledge and experience in systems and processes that enable respectful relationships with diverse Indigenous and community groups.

This assessment protocol provides an indicator of the level of implementation of these systems and processes. It is not, of itself, a guarantee of the effectiveness of activities.

TSM complements ongoing review and dialogue directly with Indigenous, community and other partners on the quality and outcomes of relationships. Regular monitoring and reporting on progress against commitments as well as outcomes from shared initiatives is also critical.

Language

This protocol uses Indigenous and Indigenous communities for consistency with TSM globally. Companies should use the term preferred by host Indigenous communities, which may include Indigenous Australian, Aboriginal and/or Torres Strait Islander or First Nations.¹

Performance Indicators

The Indigenous and Community Relationships Protocol contains five indicators:

1. Community of Interest (COI) Identification
2. Effective COI Engagement and Dialogue
3. Effective Indigenous Engagement and Dialogue
4. Community Impact and Benefit Management
5. COI Response Mechanism

Indigenous Peoples

Indigenous communities are fundamental partners in mining and the social and economic contribution mining makes to Australia. The minerals industry is also a major stakeholder in the creation of Indigenous jobs, skills and wealth.

In some jurisdictions, including Australia, the rights of Indigenous Peoples apply differently from those of non-Indigenous communities in some contexts. In Australia, native title and state and territory land rights regimes establish separate and additional legal requirements for negotiating directly with Indigenous communities regarding use of their lands. Cultural heritage protection regimes establish specific requirements and processes to engage with Indigenous communities regarding heritage protection.

¹ Australian Institute of Aboriginal and Torres Strait Islander Studies, [Indigenous Australians: Aboriginal and Torres Strait Islander People](#), AIATSIS, viewed 16 September 2021.

The UN Declaration on the Rights of Indigenous Peoples (UNDRIP) outlines how human rights apply to the specific circumstances of Indigenous peoples; this is supported by Australia, and it is not binding in the same way an international treaty is.²

The MCA recognises UNDRIP as a practical framework to inform engagement, due diligence and decision-making.

Indicator 3 is guided by UNDRIP and applicable legal requirements. It works alongside industry and company standards and aims to confirm that facilities have systems and processes to support relationships, engagement and decision-making with Indigenous communities. This includes:

- Aiming to achieve free, prior and informed consent (FPIC) for impacts on the rights of directly affected Indigenous peoples before proceeding with development and working together to maintain across the facility lifecycle.
- Equitable access to enable opportunities within the company and support for Indigenous-led cultural, social and economic development.
- Effective management of impacts through application of the mitigation hierarchy.
- Documenting, monitoring and reporting on the delivery of commitments across the facility lifecycle.
- Building management and designated employee cross-cultural competency. Core to this is ensuring that designated employees understand the local and national histories of Indigenous peoples and receive skills-based training in intercultural competency, conflict resolution, human rights and anti-racism.
- Ongoing dialogue and review to support transparency and accountability.
- Governments have particular duties to consult affected Indigenous peoples before adopting measures that may directly affect them, particularly regarding land. This protocol focuses on the process of engagement between facilities and Indigenous communities.
- Indicator 3 evaluates how facilities maintain relationships and engagement as well as respect decision-making processes. It focuses on systems and processes to reach mutually acceptable arrangements in good faith and through collaboration.

² Attorney-General's Department, [Right to self-determination](#), Australian Government, viewed 1 October 2021.

INDICATOR 1: COMMUNITY OF INTEREST (COI) IDENTIFICATION

Purpose

To confirm processes are in place to identify COI affected or with an interest in a company's operations and activities or who have a genuine interest in the performance and activities of a company and/or operation. These include processes for COI to self-identify.

COI can include Indigenous communities, community, education and environmental groups, pastoralists and other organisations. Some COI, such as native title holders, will remain consistent across the facility's life.

Assessment Criteria

Level	Criteria
C	The facility does not meet all Level B criteria.
B	<ul style="list-style-type: none"> Some COI have been identified. A process for identifying COI is being developed.
A	<ul style="list-style-type: none"> A documented process is in place for COI identification at the facility-level covering a wide range of interests and concerns. The documented process includes: <ul style="list-style-type: none"> A mechanism for COI to self-identify Descriptions of relevant attributes for identified COI and a process in place to ensure related information is up-to-date Provisions to protect confidentiality, where requested by a particular COI. COI are reconsidered periodically throughout the facility's life. The facility maintains a record of identified COI, which is regularly reviewed and updated.
AA	<ul style="list-style-type: none"> The documented process includes the identification of: <ul style="list-style-type: none"> Under-represented COI within the local context COI whose interest in the facility may be indirect and issues-based (e.g. local, state, national and international NGOs). COI are invited to provide input into how the facility identifies COI.
AAA	<ul style="list-style-type: none"> Periodic reviews of the COI identification system done in collaboration with COI to allow for continual improvement. COI input is considered in updates to the COI identification process <ul style="list-style-type: none"> Where COI input is not incorporated, feedback has been provided to the COI on why input was not incorporated.

INDICATOR 2: EFFECTIVE COI ENGAGEMENT AND DIALOGUE

Purpose

To confirm that systems and processes are established to support development and maintenance of meaningful relationships with COI, including community organisations, pastoralists and Indigenous communities, contributing to mutual understanding and to create shared value and benefits.

Assessment Criteria

Level	Criteria
C	The facility does not meet all Level B criteria.
B	<ul style="list-style-type: none">• The facility provides assistance, where appropriate, to enable COI to participate in engagement and dialogue processes.• Some internal reporting on COI engagement and dialogue activities takes place.• Informal engagement processes are in place, and occasional dialogue occurs with COI.• Formal COI engagement processes are being developed, but not implemented.
A	<ul style="list-style-type: none">• Documented COI engagement and dialogue processes, designed with input from COI, are in place.• Processes are in place to review results from COI engagement with senior management and affected COI on a regular and pre-defined frequency.• Communications are written or recorded in the local language/dialect for COI (if requested) and are clear and understandable to COI.• Relevant information is provided to COI for review in an accessible, respectful and timely manner.• Processes exist to identify COI capacity building to support effective participation on issues of interest or concern.• Engagement and dialogue training are provided to designated personnel, including appropriate cultural awareness training.• Public reporting on COI engagement takes place, including the types of engagement in the reporting period and topics/themes.³

³ Where COI identification/concerns are considered confidential and/or culturally-sensitive, public disclosure of the company's relationship with the COI, their concerns and the company's response are not required.

Level	Criteria
AA	<ul style="list-style-type: none"> • Engagement processes are reviewed with the COI to ensure effective participation in identifying issues, opportunities and influential decisions that may interest or affect them. • The facility has a consistent history of meaningful engagement with a COI beyond the reporting period. • Processes include consideration for a COI identified as under-represented. • Processes are in place to build the capacity of a COI to effectively participate in dialogue. • COI contribute to periodic reviews of engagement processes to allow continual improvement. • COI' feedback on engagement and outcomes is actively sought and publicly reported. • Opportunities exist for COI to provide feedback on public reporting.
AAA	<ul style="list-style-type: none"> • Engagement processes are co-developed with COI, where possible, and include agreed mechanisms for resolving disputes. • COI are engaged in joint decision-making on matters that directly affect them and/or matters they have an interest in. • A review of engagement system effectiveness has been conducted with COI and identified corrective actions are being implemented. • Public reporting includes disclosure of engagement system effectiveness.⁴

⁴ Effectiveness usually refers to the outcomes of engagement, such as decisions made, progress against targets, commitments and the quality of relationships.

INDICATOR 3: EFFECTIVE INDIGENOUS ENGAGEMENT AND DIALOGUE

Purpose

To confirm that systems and processes are in place to support meaningful relationships, engagement and decision-making processes with Indigenous communities. This includes aiming to achieve FPIC for impacts on rights of directly affected Indigenous peoples before proceeding with development and working together throughout the life of the facility.

This indicator also aims to assess processes to provide Indigenous peoples with equitable access to opportunities with the company. Furthermore, it seeks to ensure management and designated employees are educated on the local and national histories of Indigenous peoples and receive skills-based training in intercultural competency, conflict resolution, human rights and anti-racism.

Assessment Criteria

Level	Criteria
C	The facility does not meet all Level B criteria.
B	<ul style="list-style-type: none"> • Demonstrated commitment to Indigenous engagement is evident. • Informal engagement processes are in place and occasional dialogue occurs with directly affected Indigenous communities. • Processes are being developed (or are in place) to engage in dialogue with Indigenous communities to understand what is important to them and these approaches are informed by local language(s), customs and laws. • Processes are being developed (or are in place) to ensure the competency of designated employees and/or to provide training in: <ul style="list-style-type: none"> - Delegated consultation requirements - The history, traditions and rights of affected Indigenous peoples - Intercultural awareness and engagement.
A	<ul style="list-style-type: none"> • Demonstrated senior management commitment to Indigenous engagement, consistent with Mining and Indigenous Peoples Framework intent, is in place and includes: <ul style="list-style-type: none"> - Meaningful ongoing engagement - Building respectful relationships - Aiming to obtain the FPIC of directly affected Indigenous communities before proceeding with new projects or expansions where impacts on rights may occur - Ensuring Indigenous peoples have equitable access to opportunities related to the facility - Aiming to provide long-term sustainable benefits to affected Indigenous communities, consistent with community priorities and aspirations.⁵ • Processes are established to engage with directly affected Indigenous communities that: <ul style="list-style-type: none"> - Seek to understand what is important to the community, including culturally-significant sites, how their rights and interests may be affected and how to mitigate adverse impacts on those rights and interests - Are informed by local language(s), knowledge, traditions, customs, governance and engagement processes where already established by affected Indigenous communities - Are designed to build meaningful relationships and respectful engagement for achieving and maintaining broad ongoing support

⁵ This requirement links to Indicator 4

Level	Criteria
A	<ul style="list-style-type: none"> - Ensure cultural, spiritual and/or Indigenous knowledge is sought from local Indigenous communities and is respectfully applied to inform decisions and practices, where appropriate.⁶ • The facility works with directly affected Indigenous communities to identify opportunities for collaboration which could include, but are not limited to, local education, training, employment, business opportunities, revenue opportunities and economic development projects. • Indigenous cultural heritage protection processes for new land disturbance occurrences are informed by pre-development surveys, which are co-developed with Indigenous custodians with a process for periodic review. Where important cultural heritage is identified: <ul style="list-style-type: none"> - Arrangements for ongoing access to cultural lands, water and sites are made and managed with Indigenous custodians, where in line with safety requirements - A mitigation hierarchy is applied with Indigenous custodians to avoid and mitigate impacts to Indigenous cultural heritage - Where appropriate, the facility works with directly affected Indigenous custodians to offset impacts - Where disturbance is planned, procedures agreed with Indigenous custodians to remove, relocate, store and keep Indigenous cultural heritage items, are in place - Documented review, on a predetermined frequency defined on a risk-basis, of heritage protection arrangements in collaboration with Indigenous custodians is undertaken. • Processes are in place and implemented to ensure the competency of designated employees and/or to provide training in: <ul style="list-style-type: none"> - Delegated consultation requirements - The history, traditions and rights of affected Indigenous peoples - Intercultural awareness and engagement.
AA	<ul style="list-style-type: none"> • Engagement processes were or are being collaboratively developed with directly affected Indigenous communities (unless communities have already established engagement protocols that are adopted by the facility). This includes processes for: <ul style="list-style-type: none"> - Determining how the facility and directly affected Indigenous communities will seek agreement - Determining how traditional decision-making processes are incorporated, where appropriate - Effectively resolving disputes. • Mutually-agreed objectives have been established for identified opportunity areas in collaboration with directly affected Indigenous communities and are in the process of being implemented. • Education, awareness and/or training on the histories, traditions and rights of Indigenous peoples and intercultural awareness and engagement are: <ul style="list-style-type: none"> - Available to all employees - Provided to personnel beyond management and designated employees, with the intent of reaching all employees. • Education and awareness content is: <ul style="list-style-type: none"> - Collaboratively designed and/or delivered with affected Indigenous communities - Regularly reviewed and updated through involvement with COI. • An audit of the effectiveness of Level A cultural heritage protection processes is undertaken with the Indigenous custodians on a predetermined frequency.

⁶ Care should be taken to respect and protect the intellectual property of Indigenous knowledge.

Level	Criteria
AAA	<ul style="list-style-type: none"> • Engagement processes, as described in Level AA, are implemented and result in agreements or mutually-agreed commitments with directly affected Indigenous communities. • The facility can demonstrate it is maintaining the terms of agreements and commitments and is tracking implementation. • The facility is collaborating with communities on mutually-identified objectives identified in Level AA and can provide evidence of progress towards outcomes or benefits. • A collaborative assessment process is in place to measure progress in meeting objectives and includes: <ul style="list-style-type: none"> – Performance is verified with COI – Adaptive management is used to address instances where objectives are not consistently met. • Commitment to enhancing awareness of the histories, cultures and rights of Indigenous peoples, and intercultural awareness and engagement are demonstrated by at least three of the following: <ul style="list-style-type: none"> – Facility-wide education, awareness and/or training on the history, traditions and rights of Indigenous peoples, and intercultural awareness is provided to employees on a regular basis – On-site cultural education and awareness activities are supported by the facility – The facility facilitates and encourages personnel to participate in community events, where appropriate – The facility contributes to or participates in local, regional and/or national-level awareness initiatives – Awareness and education efforts are regularly assessed for effectiveness together with host Indigenous communities and local knowledge holders – Awareness and education efforts are expanded beyond the facility – Traditional and cultural activities/protocols are integrated into business practices. • The facility supports Indigenous custodians to undertake ongoing monitoring of cultural heritage protection measures and/or impacts beyond those of the facility where it is welcomed. • Where important cultural heritage is present and where it is welcomed by Indigenous custodians the facility contributes to the protection of Indigenous cultural heritage by: <ul style="list-style-type: none"> – Providing support to Indigenous custodians for the long-term safe storage of cultural heritage items – Supporting Indigenous custodians to store and manage their own cultural heritage data for areas affected by the facility – Supporting Indigenous custodian-led research on important cultural heritage aspects.

INDICATOR 4: COMMUNITY IMPACT AND BENEFIT MANAGEMENT

Purpose

To confirm processes are established to ensure adverse community impacts, including human rights risks and impacts, are identified, avoided and mitigated. It also confirms processes are in place to encourage and optimise social and other benefits arising from the facility.

Additionally, it seeks to confirm facilities to identify and engage COI on potential adverse environmental impacts that may directly affect communities, including those associated with tailings management (as applicable) and community safety and health impacts.

Assessment Criteria

Level	Criteria
C	The facility does not meet all Level B criteria.
B	<ul style="list-style-type: none"> • Demonstrated senior management commitment to identify and mitigate potential and actual adverse impacts related to the facility's activities that directly affect COI and work to optimise benefits to those communities. • Roles and responsibilities for implementing commitments are assigned. • Actual and potential adverse impacts related to the facility's activities that directly affect COI are identified by the facility. • The facility can demonstrate some efforts to mitigate identified adverse impacts. • Decisions related to contributions to the community are managed informally. • The facility does some monitoring of adverse impacts, trends and management practices.
A	<ul style="list-style-type: none"> • Processes are in place to engage with COI on the identification, prioritisation and avoidance or mitigation of potential and actual adverse impacts related to the facility's activities that directly affect COI. • In prioritising potential and actual adverse impacts, processes should consider the relevancy of the following on COI: <ul style="list-style-type: none"> – Social adverse impacts attributed to the presence of the facility – Environmental adverse impacts that may directly affect communities, including those associated with tailings management (as applicable) – Adverse impacts related to community safety and health. • Engagement processes include measures to facilitate and encourage participation of under-represented COI and determine which COI are most significantly impacted by identified potential and actual adverse impacts.

Level	Criteria
A	<ul style="list-style-type: none"> • Action plans for prioritised impacts are informed through engagement with relevant COI and are being implemented <ul style="list-style-type: none"> – Action plans include the identification of relevant objectives or targets, and these are tracked, reviewed and adaptively managed with affected COI – Action plans include consideration for how actions aimed at mitigating impacts can also result in optimised benefits for COI. • Processes are in place to engage relevant COI on the identification and prioritisation of opportunities to optimise COI benefits, which could include but are not limited to, consideration of local procurement and employment. • Action plans for prioritised opportunities to optimise benefits are developed through relevant COI engagement and are being implemented. <ul style="list-style-type: none"> – Action plans include the identification of relevant objectives/targets, and these are tracked, reviewed and adaptively managed with affected COI. • Processes are in place to engage with relevant COI on contributions made by the facility to community development initiatives. • Contributions are communicated publicly. • Baseline data is collected for prioritised adverse impacts. • Metrics track action plan implementation and effectiveness. • Results are reviewed with affected COI on a regular and pre-determined basis.
AA	<ul style="list-style-type: none"> • Processes are in place to avoid or mitigate prioritised adverse impacts that incorporate collaborative decision-making with relevant COI. • The identification and prioritisation of opportunities to optimise benefits for COI consider opportunities that: <ul style="list-style-type: none"> – Benefit a broad spectrum of the community – Can be self-sustaining beyond the productive life of the facility. • Processes are in place to optimise benefits for COI that incorporate collaborative decision-making with relevant COI. • Decisions on how to direct contributions made by the facility to the community are made collaboratively with COI. • In collaboration with COI (where possible), the facility regularly measures and analyses the trends of identified prioritised adverse impacts. • The facility regularly measures and analyses opportunities to optimise benefits and works with COI to prioritise and adaptively manage how gaps are addressed.

Level	Criteria
AAA	<ul style="list-style-type: none"> • Where such processes do not already exist, the facility is working with COI to implement decision-making processes to enable COI to manage ongoing adverse impact mitigation and benefit optimisation after the productive life of the facility ends. <ul style="list-style-type: none"> - These processes include identification of potential partnerships and roles of relevant levels of government to ensure sustained mitigation and optimisation - Where opportunities to minimise long-term adverse impacts and/or optimise benefits beyond the facility's productive life have been identified, these are incorporated into long-term investment decisions and/or closure plans to ensure long-term sustainability. • Where COI do not already have a shared vision and community development plan (or equivalent) and where COI are interested, the facility provides support to enable COI to begin planning. • The facility collaborates with affected COI on reviewing the effectiveness of: <ul style="list-style-type: none"> - Actions aimed at optimising priority community benefit opportunities - Actions aimed at mitigating adverse impacts.

INDICATOR 5: COI RESPONSE MECHANISM

Purpose

To confirm processes are in place to receive, track and respond to incidents, concerns and feedback from COI, including Indigenous communities and organisations, addressing impacts and risks and enabling stronger relationships and trust.

Assessment Criteria

Level	Criteria
C	<ul style="list-style-type: none"> The facility does not meet all Level B criteria.
B	<ul style="list-style-type: none"> An informal feedback process exists. A formal feedback system is either planned or in development.
A	<ul style="list-style-type: none"> A response mechanism is in place with a clear process to receive, manage and respond to COI grievances, comments and requests, which: <ul style="list-style-type: none"> Captures reported incidents, concerns and feedback Assesses and determines grievances that require remedy Responds in a timely manner Is accessible. The facility has a process to track issues and concerns raised by COI, including their status, and communicates status updates. COI are proactively and clearly informed on how to access the facility's response mechanism.
AA	<ul style="list-style-type: none"> The response mechanism is collaboratively developed with directly affected COI. The response mechanism is reviewed at least annually to identify opportunities for continuous improvement.
AAA	<ul style="list-style-type: none"> There are mechanisms in place to escalate complaints if not adequately dealt with by the COI response mechanism. The response mechanism includes a post-process follow-up with mechanism users. A review of the effectiveness of the response mechanism has been conducted and identified corrective actions are being implemented.

APPENDIX 1: FREQUENTLY ASKED QUESTIONS

Protocol-Specific Guidance

1. Who are Indigenous peoples?

In Australia, Indigenous peoples form part of two cultural groups comprising Aboriginal and Torres Strait Islander peoples.⁷ Within these two broad groups, there are more than 250 language groups.⁸ Each community is unique with its own knowledge, cultures, heritage, histories and aspirations.

To maintain consistency with TSM globally, the term Indigenous is used for this protocol. However it is important to ask and use terms preferred by each community. Some individuals and groups may prefer to be called Indigenous Australians, Aboriginal, Torres Strait Islanders or First Nations. Preferences may change between or within communities.

Further information

The [UN's Permanent Forum on Indigenous Issues](#) notes that:

'Indigenous peoples are the holders of unique languages, knowledge systems and beliefs and possess inviolable knowledge of practices for the sustainable management of natural resources. They have a special relation to and use of their traditional land. Their ancestral land has a fundamental importance for their collective physical and cultural survival as peoples. Indigenous peoples hold their own diverse concepts of development, based on their traditional values, visions, needs and priorities.'

2. How is the term Indigenous community used in this protocol?

Indigenous community is used for consistency throughout the global TSM protocol.

In Australia, its application varies depending on the context. It may refer to:

- Traditional Owners recognised as native title holders over particular lands, seas and waters, including where native title holders do not live on or near recognised lands
- Aboriginal landholders recognised under the *Aboriginal Land Rights Act (Northern Territory) 1976* and state-based land rights, heritage and other regimes
- Traditional Owner groups that are recognised through established regulatory processes as custodians of particular lands, seas and waters
- Traditional Custodians and other Aboriginal and Torres Strait Islander peoples who may not be native title holders but maintain an interest and unique connection to particular lands, places and communities. This includes Indigenous peoples who maintain a historical connection with an area or location.
- Physical communities made up predominantly of Aboriginal and/or Torres Strait Islander peoples. More than 60% of resource projects are located near Indigenous communities in Australia.⁹

There may be multiple Indigenous communities affected by a particular facility.

In making assessments under this protocol, the facility should be able to demonstrate identification and recognition of and engagement with the Indigenous communities as appropriate for each context.

⁷ Care should be taken to respect and protect the intellectual property of Indigenous knowledge.

[Indigenous Australians: Aboriginal and Torres Strait Islander people](#), AIATSIS, viewed 16 September 2021.

⁸ *ibid*, viewed 20 September 2021.

⁹ Department of Industry, [Working with Indigenous Communities Handbook](#), Australian Government, Canberra, 2016, p. 1.

3. What is a Community of Interest (COI)?

Community of Interest describes individuals and groups who may be or consider themselves to be affected by the facility's operations, its activities and decisions relating to it. Some COI will have an interest in the facility.

Some COI, such as groups of Indigenous communities, neighbours and governments, may remain consistent across the life of a facility. However appropriate members of these groups to engage may change over time.

In addition, some COI may be affected by or be interested in the facility at different points of its life.

Facility-level COI may include the following groups:

Traditional Owners	Native title holders	Physical Indigenous communities
Aboriginal and Torres Strait Islander landholders	Registered Aboriginal and Torres Strait Islander parties	Community members
Facility neighbours	Employees and contractors	Regulatory agencies
Pastoralists	Farmers	Other industries
Suppliers	Customers	Government agencies
Under-represented groups	Non-government organisations	Education providers

The *TSM Indigenous and Community Relationships Protocol* assesses facility-level performance, systems and processes. However, companies should identify COI with an interest in the facility beyond local COI. For example, shareholders or downstream users of mined products (e.g. jewellery manufacturing) will likely have an interest in the facility's environmental, social and governance (ESG) performance.

A company may also engage with suppliers to understand supply chain practices (e.g. feedstock supplied to an operation). How a facility engages with different COI will vary depending on the context. This protocol aims to support and assess facilities working with COI to determine appropriate engagement mechanisms, areas for focus and strategies for working together.

4. What assistance could be provided to a COI to support participation in engagement and dialogue processes?

This will vary according to context and should be determined with the COI. In particular, it should consider the type of discussion, contribution or issue being discussed (e.g. negotiation processes will require additional assistance).

Whether individuals or groups are in paid positions on behalf of an organisation or group should be considered. Those participating in a personal or community capacity are likely to require additional assistance to contribute. Common examples may include assistance with travel costs, a stipend for participating in advisory or other groups or support for capacity-building activities. Reasonable funding or assistance could also be provided.

Regulatory regimes may also require companies or facilities to provide reasonable costs for Indigenous community participation, such as in native title processes.

5. Can corporate documentation be used to demonstrate facility-level commitment?

TSM assesses facility-level systems and processes. Written senior management commitment at a corporate level (e.g. a corporate policy or standard) can only be accepted as evidence of facility-level commitment when direct evidence of the corporate commitment being applied in facility-level systems, processes and practices is available. Facility-level evidence should relate to the reporting period.

6. How can a facility identify directly affected Indigenous communities?

The process of identifying directly affected Indigenous communities will vary depending on location and context. Companies should consider:

- Whether native title has been determined or a claim is progressed to determine native title over a particular area.
- Whether lands are Aboriginal freehold lands under the Aboriginal Land Rights Act (Northern Territory only) and/or state-based regimes.
- Whether Traditional Owner custodianship has been recognised through state or territory cultural heritage protection or other processes.
- If proximity to physical communities is made up of predominantly Aboriginal and/or Torres Strait Islander people; most such communities are in remote Australia.
- If other regulatory and/or community processes are established to identify appropriate Traditional Owners for a particular area.

More than one Indigenous community may be directly affected by the facility. In some contexts, multiple parties might self-identify as Traditional Owners (e.g. through overlapping native title claims) or disagree with other Traditional Owner groups about who are the right custodians to speak for country.

In these instances, the facility should rely on the best available information to make decisions regarding the correct stakeholder group to engage with on a particular issue. It may be advisable to adopt a wider engagement approach to avoid difficulties and potentially exclude the right people who are authorised to speak for and make decisions about country. The relevant State Government Department should be consulted to inform the site and company approach (although this advice should not be solely relied on).

7. How should regional engagement approaches be reflected within the assessment?

Where multiple facilities are located within a region, the company may adopt a regional approach for COI identification and engagement. In these cases, the division of roles and responsibilities between facility-level and regional-level personnel, systems and processes should be clearly documented, developed and implemented. Whatever approach is applied, the focus on COI identification, engagement and collaboration should remain consistently high.

Facility-level and regional systems should be adhered to when assessing performance for each facility within the region.

8. How can a facility demonstrate collaboration with a COI?

The Indigenous and Community Relationships Protocol includes criteria to demonstrate collaboration and co-development with a COI.

What collaboration and co-development look like in practice will vary depending on COI priorities and the local context. It could mean the co-development of an engagement plan, training or employment initiative or an advisory committee. Alternatively, collaboration could be demonstrated by a facility adopting a community-established engagement process or partnering on a joint initiative.

Mutually-accepted approaches to collaboration should be determined through COI engagement. Evidence should be provided to demonstrate what actions were taken and the relevant approach.

9. How can a COI contribute to periodic reviews of engagement processes, as per Indicator 2 Level AA?

A facility should work with relevant COI to determine the appropriate mechanisms for COI to contribute to or collaborate on reviews of engagement processes and outcomes. Examples could

include jointly developing performance indicators, evaluation process participation and contributing to review conclusions, recommendations and actions to address gaps and opportunities.

10. How could a facility publicly report on engagement activities?

Public reporting on engagement activities may be conducted in a variety of ways. For example, some companies report on engagement in an annual corporate sustainability report. Others may report on COI engagement through newsletters, reports to the community or on the company website.

If a company reports on engagement as part of an annual corporate sustainability report, relevant information should be made available to COI in a timely, appropriate and relevant manner. Opportunities for feedback should also be provided.

Public reporting does not need to document every meeting with an individual COI. However, it should provide a summary of facility-level engagement activities and key themes/topics of interest or concern to the COI and relevant outcomes.

Facilities should demonstrate respect for COI by seeking advice about information disclosure, and confidentiality regarding commercial and culturally-sensitive activities should be maintained.

11. What is the expectation where an Indigenous community or other COI are unwilling or unable to engage/collaborate with the facility?

The protocol aims to ensure a facility's commitments, processes and actions are aligned with a genuine intent to build and maintain meaningful relationships.

Despite a facility's best efforts, there may be instances where an Indigenous community or other COI cannot or does not want to engage with the facility for various reasons. In these cases, the facility should be evaluated based on the alignment of its commitments, processes and actions to the criteria of this protocol. Lack of reciprocity on engagement efforts should not prevent a facility from scoring beyond Level A.

However, the facility should provide evidence of attempts to understand and resolve issues that may underpin the decision not to engage (including legacy or historical impacts) and attempts to engage over a reasonable period. It should demonstrate that reasonable support has been offered to enable engagement.

Several criteria require facilities and COI to collaborate, but this may not be possible or appropriate in all instances. For example, Indicator 2, Level AAA requires that engagement processes be co-developed with COI. COI may not wish to, or be able to co-develop an engagement process. In these situations, a facility should demonstrate that it has provided COI with the opportunity to co-develop the engagement processes and that engagement processes reflect the needs and interests of the community.

Evidence should be provided to show how the facility attempted to engage, offers of reasonable support and assistance to support collaboration now and plans to support collaboration in the future.

12. How can a facility demonstrate processes include consideration for COI identified as under-represented?

Companies should take a holistic approach to engagement. The protocol aims to ensure facilities have inclusive, accessible and appropriate engagement processes that provide opportunities for all COI to engage in meaningful dialogue. This includes individuals within specific groups or populations at heightened risk of vulnerability or that may require additional support.

To do so, the facility should encourage public participation to design engagement processes that meet COI needs and respect cultural, accessibility and other considerations. Addressing participation barriers may require a broad view of issues impacting COI (e.g. healthcare, education and support). One-on-one engagement with specific groups or individuals may be required.

Not all COI will have an interest in engaging with a facility. However, the facility should be able to demonstrate that it facilitates opportunities for those potentially directly and adversely affected by the facility to participate in engagement processes, including ensuring engagement opportunities are communicated publicly and appropriately (e.g. through the company website, phone calls and direct contact, radio advertising, newspaper or community-distributed newsletters).

It should protect COI confidentiality, including requests from under-represented groups.

13. How can a facility without a formal agreement (such as Indigenous land use or cultural heritage agreement) demonstrate adherence to Indicator 3 Level AAA?

Indicator 3 Level AAA requires a facility to demonstrate that it maintains terms of agreements and commitments with Indigenous communities and tracks and reports on implementation.

This indicator is intended to confirm that the facility is fulfilling commitments made to Indigenous communities. While the delivery of commitments within formal agreements, such as land use agreements, participation agreements and cultural heritage agreements, may be used as evidence, facilities can achieve Level AAA without a formal agreement in place. However, there must be clear evidence that commitments to Indigenous communities are documented, tracked and reported on.

14. To meet the education and awareness criteria in Indicator 3 (Level A-AAA), does a facility have to provide the same level of training to all employees?

Indicator 3 was originally developed to respond to Canada's Truth and Reconciliation Commission's Call to Action. Its focus generally aligns with Reconciliation Australia's Five Dimensions of Reconciliation.

Reconciliation Australia's Five Dimensions

1. Race relations: All Australians understand and value Aboriginal and Torres Strait Islander and non-Indigenous cultures, rights and experiences, which results in stronger relationships based on trust and respect and that are free of racism.
2. Equality and equity: Aboriginal and Torres Strait Islander peoples participate equally in a range of life opportunities and the unique rights of Aboriginal and Torres Strait Islander peoples are recognised and upheld.
3. Institutional integrity: The active support of reconciliation by the nation's political, business and community structures.
4. Unity: An Australian society that values and recognises Aboriginal and Torres Strait Islander cultures and heritage as a proud part of a shared national identity.
5. Historical acceptance: All Australians understand and accept the wrongs of the past and their impact on Aboriginal and Torres Strait Islander peoples. Australia makes amends for past policies and practices ensures these wrongs are never repeated.

Actions will vary between facilities, and the degree of education and awareness provided will vary for different roles within an organisation. For example, awareness and education provided to management and designated employees (as per Level A) should be based on gaps in knowledge and/or skills and designed to ensure that these individuals have the appropriate level of knowledge/skills to respectfully and effectively engage with the community. In contrast, awareness training provided to short-term employees could be included as part of a facility orientation package.

Education and awareness of the history of Indigenous peoples should not be restricted to a conventional classroom environment. Some companies have successfully enhanced awareness within their organisations by providing access to Indigenous films and plays, embedding Indigenous protocols into business practices and encouraging employee participation in community events

(where invited and appropriate). Materials developed with Indigenous communities or by Indigenous organisations and groups should be prioritised.

This protocol seeks to encourage facilities to ensure employees have skills in intercultural competency, conflict resolution, human rights and anti-discrimination. In some cases, employees will already have the relevant competencies, but in other situations, the facility will need to provide skills-based training, intercultural awareness and engagement training. Initiatives should be based on the needs of the organisation and individual employees. There will not be a one size fits all approach for the content or its delivery. However, all approaches should consider the local context, critical issues and, where possible, the views and preferences of local Indigenous communities.

To achieve Level AA of Indicator 3, there must be evidence that awareness and/or training programmes have been developed and implemented in collaboration with Indigenous communities. This could include collaboration on content development and working with Indigenous communities to identify and support Elders and/or local knowledge holders to deliver awareness and/or training programmes. In some cases, and despite all reasonable efforts, collaboration with all (or any) relevant Indigenous communities will not be possible. In these situations, the facility should be able to demonstrate and explain how all reasonable efforts have been made to engage with the relevant communities. The facility should also be able to ensure that training material respectfully reflects the local context.

Level AAA encourages facilities to demonstrate leadership in enhancing employee and community awareness of the history, traditions and rights of Indigenous peoples in addition to showing leadership in demonstrating intercultural awareness and engagement. One way to do so is through facility-wide education, awareness or training initiatives provided to employees on a regular basis. In assessing performance, there should be evidence of regular facility-wide initiatives designed to reach all employees. *TSM Verification Service Providers* are not required to assess whether there has been participation by all employees within the organisation.

15. How can competency in Indigenous engagement and consultation requirements be demonstrated?

Considerations to determine if an individual is competent include but are not limited to:

- Previous training, including formal education, as appropriate
- Previous experience, including applying engagement protocols and consultation requirements
- Degree of relevant knowledge
- Relationship with COI
- Community perception feedback and views on facility activities, outcomes and relationships.

16. What are examples of objectives that could be identified through collaboration with a COI?

Mutually agreed objectives may include but are not limited to local education, training, employment, business opportunities, procurement, economic development projects and environmental programmes, heritage protection and awareness measures, and mitigation measures and offsets.

17. How can a facility not within proximity of an Indigenous community demonstrate adherence to the criteria in Indicator 3?

The actions a facility undertakes to achieve Levels A, AA and AAA of Indicator 3 will vary from one facility to the next. Engagement processes should reflect the local context and the proximity of the impact on Indigenous peoples. Proximity impact includes where Indigenous communities hold native title or land rights over land on which a facility operates. It also includes Traditional Owners where custodianship is recognised through other processes.

Although it is unlikely in the Australian context, some facilities might not have a direct impact on an Indigenous community and/or there have been no requests for engagement from Indigenous communities. In other situations, companies may have attempted to engage with Indigenous communities but with little or no response from those communities.

In situations where the degree and proximity of impact on an Indigenous community or communities are negligible, a facility may determine that some criteria in this indicator are not applicable.

A facility assessed at Levels AA or AAA should demonstrate:

- It has a documented understanding of the proximate community/ies, including the degree and proximity of impact.
- It has an open and inclusive engagement process to ensure that potentially impacted Indigenous communities have an opportunity and are provided reasonable support to participate in the facility's engagement activities, if interested.
- Efforts are made to ensure that Indigenous peoples have equitable access to opportunities within the company.
- Indigenous inclusion and awareness initiatives (as per Indicator 3) are in place.
- Efforts to engage with Indigenous communities and organisations are documented.
- Efforts have been made to understand and address any historical and/or legacy issues affecting the current relationship.

Facilities assessed at Levels AA or AAA for Indicator 3 that have determined that some of the criteria are not applicable are required to publicly describe how this determination was made and how it is applied in annual *TSM Company Profiles* as part of *TSM Progress Reports*.

18. At what stage should a facility look at initiatives to benefit the community post-closure?

In Australia, it is common for facilities to engage communities in post-mining social, environmental and economic opportunities over the project lifecycle. This includes where the life of the facility is expected to span decades. Different activities should be undertaken at different points of the facility's life cycle to support positive post-mining outcomes. For example:

- Post-mining rehabilitation, including final landform design, should be considered before project development. Progressive mine rehabilitation is expected throughout the facility's life cycle. COI should be informed so they can engage and participate in these activities as appropriate.
- Long-term social and economic benefits often require long-term shared investments, focus and resourcing. Community investments and initiatives should consider post-mining sustainability.

19. How can a facility demonstrate that processes are in place to identify potential and actual adverse social, environmental and community health and safety impacts?

To engage effectively with relevant COI on potential and actual adverse impacts, a facility must have a good understanding of the potential and actual impacts associated with its activities. The identification of potential and actual impacts can be performed in conjunction with other risk assessment exercises. For example, the facility may address this while fulfilling the TSM Crisis Management and Communications Protocol requirement to identify credible threats and risks.

A facility must identify COI with specific relevance to or interest in each identified potential impact. This process should be incorporated into the COI identification system described in Indicator 1.

For example, in the case of tailings management, identified COI should include:

- Those who may be directly impacted in the event of a failure of a tailings facility.
- Those who may be impacted by the presence and operation of a tailings facility.

Issues of interest and importance will vary from one facility to the next and between COI. It may vary between members within a particular COI and change at different points in a facility's life.

In working with a COI, it should be noted that different COI and the facility may view the same issues differently. For example, an Indigenous community's view of what constitutes sustainable development may differ from how the facility views sustainable development. Similarly, an environmental community group may wish mined lands to be returned to their native habitat while a nearby pastoralist might want it to be rehabilitated as farming land.

Topics for engagement should be determined through dialogue with COI. These may include:

- Cultural heritage protection
- Access to lands covered by the facility's lease for cultural and community purposes
- Employment, training and career advancement opportunities
- Development and use of facility and community infrastructure
- Emergency preparedness and response planning
- Nature of tailings (e.g. acid-generating vs non-acid generating)
- Environmental impacts, including water, lands, biodiversity and air impacts
- Closure and rehabilitation
- Community safety and health
- Regulatory requirements and permitting processes
- Design plans for new facilities and expansions, including processes for community participation in decision-making
- Site leadership and staff continuity
- Supply and procurement arrangements for local and Indigenous businesses
- Water usage and quality
- Dust suppression
- Visual impact and amenity
- Liability and accountability for residual impacts
- Monitoring practices and results
- Adaptation to climate change and preparations for extreme weather events.

It is important to develop a shared understanding of how the COI and the facility view each issue, including potential impacts, risks and opportunities. It is also important to regularly review how issues are prioritised and managed in collaboration with COI where appropriate.

20. How does the mitigation hierarchy apply to this protocol?

The mitigation hierarchy is a framework that is typically applied in managing the risks and potential impacts of development projects on biodiversity. It aims to avoid, minimise and offset impacts, and its principles should be applied to managing other impacts. When developing action plans for adverse impacts, facilities should prioritise avoidance before considering efforts to minimise or compensate for impacts.

Avoidance includes measures to anticipate and prevent adverse impacts before actions or decisions that could lead to such impacts, including the protection of culturally-significant heritage.

Avoidance may involve changes in early project planning to 'design out' impacts or risks. If avoidance is not possible, and once the preferred alternatives have been chosen, it is appropriate to consider minimisation.

(Adapted from ICM's [A cross-sector guide for implementing the Mitigation Hierarchy](#)).

21. What are the UN's Sustainable Development Goals (SDGs) and how do they relate to Indicator 4 of this protocol?

The UN's SDGs set global social and environmental aspirations until 2030. Adopted by world leaders in 2015, the SDGs came into effect in all countries, including Australia, in January 2016.

The 17 interrelated SDGs provide a framework to understand potential impacts, benefits and risks, and how collaboration supports a better life for all. The MCA's 2018 [Sustainability in Action: Australian Mining and the United Nations Sustainable Development Goals](#) provides more information about the application of SDGs.

22. What are examples of mechanisms that could be used to escalate complaints from COI if they are not adequately dealt with through the COI response mechanism?

When a resolution cannot be achieved through the response mechanism process, facilities and COI can retain a neutral and respected third party, such as an Elder or trained mediator, to try to negotiate a mutually acceptable resolution. If the complaint involves a technical matter, a third party could be retained to provide expertise and an independent opinion.

23. What is anti-racism?

Anti-racism describes strategies developed to address and eliminate racism. It refers to concrete actions to address the causes, impacts and continuation of racism.¹⁰

24. How should facilities engage with Indigenous communities regarding cultural activities, including activities to recognise custodianship, celebrate local cultures and develop employee training?

In particular, facilities should:

- Recognise the many responsibilities Indigenous communities have, and respect and value the time, knowledge and resources they may contribute to initiatives.
- Invest time in building relationships and understanding before making specific requests.
- Ensure appropriate timeframes for the development, delivery and review of initiatives.
- Recognise that activities should be ongoing rather than one-off where possible. This demonstrates respect and helps build deeper understanding and appreciation.
- Consider how to balance activities between different Indigenous communities if a facility engages across multiple lands and waters. It is important to share that every community is valued and respected.

¹⁰ Australian Human Rights Commission, [Concept Paper for a National Anti-Racism Framework](#), AHRC, Australia, March 2021.

- Respect cultural knowledge shared by Indigenous communities, recognising the importance of protecting their intellectual property.
- Consider whether it is appropriate and how to recognise legacy impacts and decisions that continue to cause pain to Indigenous communities. This may be necessary before undertaking other activities to support a sense of place and help regain trust.
- Recognise the value of interpersonal interactions in addition to considering digital or online options.
- Consider how to support Indigenous communities to develop and build services and products that could be provided as a commercial enterprise.

Definition of Key Terms

25. What does ‘clear and understandable’ mean?

Clear and understandable means that language used in communications is at a reading level that is appropriate for the typical educational level of attainment of COI and free from technical jargon. Facilities should engage directly with COI to understand how to ensure information and communications are respectful, relevant and timely.

26. What is meant by ‘capacity building’?

Capacity building refers to the development, fostering and support of resources and relationships at individual, organisational, inter-organisational and systems levels. It aims to enable COI to effectively engage with facilities and transfer information within the COI.

27. What are ‘engagement’ and ‘dialogue’?

Engagement is a process of two-way communication that addresses the specific needs for information of COI and the facility in a way that is understandable to the participants in the discussion. Dialogue is a form of ongoing communication that leads to shared understanding between participants.

28. How is ‘senior management’ defined?

For this protocol, senior management refers to corporate and/or facility-level personnel with overall accountability for engagement and dialogue processes.

For large organisations with many sites, outreach takes place at several levels – community, regional and national. In these circumstances, ‘senior management’ is used to describe personnel with overall responsibility for outreach at each of the various levels. In providing this definition, the importance of facility-level relationships should be recognised and supported.

29. What is baseline data?

Baseline data is the data typically collected before the facility’s development. For adverse social impacts, this would include data on social conditions, social wellbeing and social activities for COI. It includes economic metrics.

The scope of the baseline data should be tailored to the local context, the facility, take into account COI input and include indicators and information that are useful and meaningful for effective analysis of prioritised adverse social and economic impacts.

Recognising that pre-development baseline data may not be available for all facilities, alternative approaches may be chosen. For example, a facility may select a point in time as the baseline to enable the ongoing assessment of trends and effectiveness of actions.

Furthermore, the facility may not have access to data on all prioritised adverse social impacts. This should not deter facilities from obtaining and sharing baseline data.

30. What is local and Indigenous knowledge?

The United Nations Educational, Scientific, and Cultural Organisation (UNESCO) has defined local and Indigenous knowledge as:

Local and Indigenous knowledge refers to the understandings, skills and philosophies developed by societies with long histories of interaction with their natural surroundings. For rural and Indigenous peoples, local knowledge informs decision-making about fundamental aspects of day-to-day life.

This knowledge is integral to a cultural complex that also encompasses language, systems of classification, resource use practices, social interactions, ritual and spirituality.

These unique ways of knowing are important facets of the world's cultural diversity, and provide a foundation for locally-appropriate sustainable development.

[\(UNESCO, Local and Indigenous Knowledge Systems\)](#)

Indigenous Knowledge should only be applied where permission is expressly given by Indigenous communities. Confidentiality should be maintained. Indigenous communities should also retain the Intellectual Property for this knowledge.

31. What is a community contribution?

A community contribution is a financial or in-kind contribution to benefit the community. Contributions include, but are not limited to, community donations, investments in community development initiatives, procurement and employment initiatives, support for skills training and education programmes. It can also refer to additional support.

In Australia, community contributions are generally understood to be separate from payments to native title and/or Aboriginal and Torres Strait Islander parties in return for land access and/or to compensate for impacts. These include payments made under land use agreements.

Community contributions do not generally include rates or other service charges associated with a facility's operations.

Community contributions do not include financial or in-kind support that benefits the facility with an indirect benefit to the community.

32. How is a facility defined for reporting purposes?

Flexibility is provided in determining what constitutes a facility for the purposes of meeting TSM reporting requirements. Where appropriate, companies may wish to take an aggregated approach to individual activities (e.g. due to close proximity or connected operations). The definition of a facility should be consistent across all TSM protocols.

33. What is meant by pre-development in regards to Indigenous cultural heritage surveys?

For TSM, pre-development means at a time where heritage survey outcomes can inform design. This also means before land disturbance occurs.

34. What type of audit is required for a Level AA assessment?

For TSM, an internal audit is required. The internal audit can be undertaken in collaboration with or with input from Indigenous communities.

35. What is meant by self-identify?

The term 'self-identify' describes a mechanism by which a COI can advise the company that it is interested in or affected by the facility. It could include a stakeholder email or phone number by which stakeholders can make contact. Environmental, community and other groups, for example, may use the mechanism to self-identify their interest in facility activities.

It can also allow for native title holders or Aboriginal landholders (Northern Territory) to identify the appropriate custodian in regards to particular country. This usually occurs where there are defined native title areas or Aboriginal lands.

APPENDIX 1– INDIGENOUS AND COMMUNITY RELATIONSHIPS CHECKLIST

SELF ASSESSMENT CHECKLIST

Facility Name:		Company Name:	
Assessed By:		Date Submitted:	

Supporting Documentation / Evidence:	
NAME OF DOCUMENT	LOCATION

Interviewees:			
NAME	POSITION	NAME	POSITION

INDICATOR 1: COI IDENTIFICATION

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level B	1. Have some local COI been identified?				
	2. Is there a process for identifying COI being developed?				
	<i>If you have answered "Yes" to all the Level B questions, continue to the Level A questions. If you have not answered "Yes" to all the Level B questions, assess the facility as a Level C.</i>				
Level A	1. Is there a documented process in place for COI identification at the facility level that can determine a wide range of interests and concerns?				
	2. Does the process also include:				
	a. A mechanism for COI to self-identify?				
	b. Descriptions of relevant attributes for identified COI and a process in place to ensure related information is up to date?				
	c. Provisions to protect confidentiality, where requested by a COI?				
	3. Are COIs reconsidered periodically throughout the facility's life?				
4. Does the facility maintain a record of identified COI, which is regularly reviewed and updated?					
<i>If you have answered "Yes" to all the Level A questions, continue to the Level AA questions. If you have not answered "Yes" to all the Level A questions, assess the facility as a Level B.</i>					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AA	1. Does the documented process include the identification of:				
	a. Under-represented COI within the local context?				
	b. COI whose interest in the operation may be indirect and issues-based (e.g., local, state, national and international NGOs)?				
	2. Are COIs invited to provide input into how the facility identifies COI?				
<i>If you have answered "Yes" to all the Level AA questions, continue to the Level AAA questions. If you have not answered "Yes" to all the Level AA questions, assess the facility as a Level A.</i>					
Level AAA	1. Are periodic reviews of the COI identification system done in collaboration with COI to allow for continual improvement?				
	2. Is COI input considered in updates to the COI identification process?				
	a. Where COI input is not incorporated, has feedback been provided to the COI on why input was not incorporated?				
<i>If you have answered "Yes" to all the Level AAA questions, assess the facility as a Level AAA. If you have not answered "Yes" to all the Level AAA questions, assess the facility as a Level AA.</i>					
ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 1					Level: _____

INDICATOR 2: EFFECTIVE ENGAGEMENT AND DIALOGUE

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level B	1. Does the facility provide assistance, where appropriate, to ensure COI are able to participate in engagement and dialogue processes?				
	2. Does some internal reporting on COI engagement and dialogue activities take place?				
	3. Are informal engagement processes in place, and does occasional dialogue occur with COI?				
	4. Are formal COI engagement processes being developed (if they have not already been implemented)?				
	<i>If you have answered "Yes" to all the Level B questions, continue to the Level A questions. If you have not answered "Yes" to all the Level B questions, assess the facility as a Level C.</i>				
Level A	1. Are there documented COI engagement and dialogue processes, which were designed with input from COI, in place?				
	2. Are processes in place to review results from COI engagement with senior management and affected COI on a regular and pre-defined frequency?				
	3. Are communications written in the local language for COI (if requested) and written in language that is clear and understandable to COI?				
	4. Are relevant materials provided to COI for review in an accessible and timely manner?				
	5. Do processes exist to identify the needs of COI for capacity building to support effective participation on issues of interest or concern to them?				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level A	6. Is engagement and dialogue training provided to designated personnel, including appropriate cultural awareness training?				
	7. Does public reporting on COI engagement take place, including the types of engagement that have taken place in the reporting period and the topics/themes?				
	<i>If you have answered "Yes" to all the Level A questions, continue to the Level AA questions. If you have not answered "Yes" to all the Level A questions, assess the facility as a Level B.</i>				
Level AA	1. Are engagement processes reviewed with COI to ensure they can effectively participate in identifying issues and opportunities and influence decisions that may interest or affect them?				
	2. Does the facility have a consistent history of meaningful engagement with COI?				
	3. Do processes include consideration for COI identified as under-represented?				
	4. Are processes in place to build the capacity of COI to effectively participate in dialogue?				
	5. Do COI contribute to periodic reviews of engagement processes to allow continual improvement?				
	6. Is COI feedback on engagement and outcomes actively sought and publicly reported?				
	7. Do opportunities exist for COI to provide feedback on public reporting?				
<i>If you have answered "Yes" to all the Level AA questions, continue to the Level AAA questions. If you have not answered "Yes" to all the Level AA questions, assess the facility as a Level A.</i>					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AAA	1. Are engagement processes co-developed with COI, where possible, and do they include mechanisms for resolving disputes?				
	2. Are COI engaged in joint decision-making on agreed to matters that directly affect them and/or they have an interest in?				
	3. Has a review of the effectiveness of the engagement system been conducted with COI and are identified corrective actions being implemented?				
	4. Does public reporting include the disclosure of the effectiveness of the engagement system?				
	<i>If you have answered "Yes" to all the Level AAA questions, assess the facility as a Level AAA. If you have not answered "Yes" to all the Level AAA questions, assess the facility as a Level AA.</i>				
	ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 2			Level: _____	

INDICATOR 3: EFFECTIVE INDIGENOUS ENGAGEMENT AND DIALOGUE

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level B	1. Is a demonstrated commitment to Indigenous engagement evident?				
	2. Are informal engagement processes in place, and does occasional dialogue occur with directly affected Indigenous communities?				
	3. Are processes being developed (or are processes in place) to engage in dialogue with Indigenous communities to determine what is important to them and are these approaches being informed by local language(s), customs, and laws?				
	4. Are processes being developed (or are in place) to ensure the competency of designated employees and/or to provide training in:				
	a. Delegated consultation requirements?				
	b. The history, traditions, and rights of affected Indigenous peoples?				
	c. Intercultural awareness and engagement?				
	<i>If you have answered "Yes" to all the Level B questions, continue to the Level A questions. If you have not answered "Yes" to all the Level B questions, assess the facility as a Level C.</i>				
Level A	1. Is there demonstrated senior management commitment to Indigenous engagement, consistent with the intent of the Mining and Indigenous Peoples Framework, and does it include commitments to:				
	a. Meaningful ongoing engagement?				
	b. Building respectful relationships?				
	c. Aiming to obtain the FPIC of directly affected Indigenous peoples before proceeding with new projects or expansions where impacts to rights may occur?				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level A	d. Ensuring that Indigenous peoples have equitable access to opportunities related to the facility?				
	e. Aiming to provide long-term sustainable benefits to affected Indigenous communities, consistent with community priorities and aspirations?				
	2. Are processes established to engage with directly affected Indigenous communities that:				
	a. Seek to understand what is important to the community, including culturally significant sites, how their rights and interests may be affected and how to mitigate adverse impacts on those rights and interests?				
	b. Are informed by local language(s), traditions, customs, Indigenous governance, and engagement processes where already established by affected Indigenous communities?				
	c. Are designed to build meaningful relationships and respectful engagement towards achieving and maintaining broad ongoing support?				
	d. Ensure that cultural, spiritual, and/or Indigenous knowledge is sought from local Indigenous communities and organisations and is respectfully applied to inform decisions and practices, where appropriate?				
	3. Does the facility work with directly affected Indigenous communities to identify opportunities for collaboration which could include, but are not limited to, local education, training, employment, business opportunities, revenue opportunities and economic development projects?				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE	
Level A	4. Are Indigenous cultural heritage processes for new land disturbances informed by pre-development surveys, which are co-developed with Indigenous custodians with a process for periodic review? Where important cultural heritage is identified:					
	a. Arrangements are made and managed with Indigenous custodians for ongoing access to cultural lands, water and sites (where in line with safety requirements)					
	b. A mitigation hierarchy is applied with Indigenous custodians to avoid and mitigate impacts to Indigenous cultural heritage					
	c. Where appropriate, the facility works with directly affected Indigenous custodians to offset impacts					
	d. Where disturbance is planned, procedures agreed with Indigenous custodians to remove, relocate, store and keep Indigenous cultural heritage items are in place					
	e. A documented review, on a predetermined frequency defined on a risk-basis, of heritage protection arrangements in collaboration with Indigenous custodians is undertaken					
	5. Are processes in place and implemented to ensure the competency of designated employees and/or to provide training in:					
	a. Delegated consultation requirements?					
	b. The history, traditions, and rights of affected Indigenous peoples?					
	c. Intercultural awareness and engagement?					
	<i>If you have answered "Yes" to all the Level A questions, continue to the Level AA questions. If you have not answered "Yes" to all the Level A questions, assess the facility as a Level B.</i>					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AA	1. Have engagement processes been (or are they in the process of being) collaboratively developed with directly affected Indigenous communities, unless engagement protocols already established by the communities have been adopted by the facility? Does this include processes for:				
	a. Determining how the facility and directly affected communities will seek agreement?				
	b. Determining how traditional decision-making processes are incorporated, where they exist?				
	c. Effectively resolving disputes?				
	2. Have mutually-agreed objectives been established for identified opportunity areas in collaboration with directly affected Indigenous communities and are they in the process of being implemented?				
	3. Is education, awareness and/or training on the history, traditions and rights of Indigenous peoples, and intercultural awareness and engagement:				
	a. Available to all employees?				
	b. Provided to personnel beyond management and designated employees, with the intent of reaching all employees?				
	4. Is education and awareness content:				
	a. Collaboratively designed and/or delivered with Indigenous communities?				
	b. Regularly reviewed and updated through involvement with COI?				
	5. Has an audit of the effectiveness of Level A cultural heritage protection processes been undertaken with the Indigenous custodians on a predetermined frequency?				
	<i>If you have answered "Yes" to all the Level AA questions, continue to the Level AAA questions. If you have not answered "Yes" to all the Level AA questions, assess the facility as a Level A.</i>				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AAA	1. Have engagement processes, as described in Level AA, been implemented and have they resulted in agreements or mutually-agreed commitments with directly affected Indigenous communities?				
	2. Can the facility demonstrate that it is maintaining the terms of agreements and commitments and is tracking their implementation?				
	3. Is the facility collaborating with communities on mutually identified objectives identified in Level AA and can it provide evidence of progress towards outcomes or benefits?				
	4. Is a collaborative assessment process in place to measure progress in meeting objectives and does it include:				
	a. Verification of performance with COI?				
	b. Incorporation of adaptive management that can address instances where objectives are not consistently met?				
	5. Is a commitment to enhancing awareness on the history, traditions, and rights of Indigenous peoples and intercultural awareness and engagement demonstrated by at least three of the following:				
	a. Facility-wide education, awareness and/or training on the history, traditions and rights of Indigenous peoples and intercultural awareness provided to employees on a regular basis?				
	b. On-site cultural education and awareness activities are supported by the facility?				
	c. The facility facilitates and encourages the participation of personnel in community events?				
	d. The facility contributes to or participates in local, regional, and/or national-level awareness initiatives?				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE	
Level AAA	e. Awareness and education efforts are regularly assessed for effectiveness with host Indigenous communities and local knowledge holders?					
	f. Awareness and education efforts are expanded beyond the facility?					
	g. Traditional and cultural activities/protocols are integrated into business practices?					
	6. The facility supports Indigenous custodians to undertake ongoing monitoring of cultural heritage protection measures and/or impacts beyond those of the facility (where it is welcomed)					
	7. Where important cultural heritage is present and where it is welcomed by Indigenous custodians the facility contributes to the protection of Indigenous cultural heritage by:					
	a. Providing support to Indigenous custodians for the long-term safe storage of cultural heritage items					
	b. Supporting Indigenous custodians to store and manage their own cultural heritage data for areas affected by the facility					
	c. Supporting Indigenous custodian-led research on important cultural heritage aspects					
	<i>If you have answered "Yes" to all the Level AAA questions, assess the facility as a Level AAA. If you have not answered "Yes" to all the Level AAA questions, assess the facility as a Level AA.</i>					
	ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 3					Level: _____

INDICATOR 4: COMMUNITY IMPACT AND BENEFIT MANAGEMENT

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level B	1. Is there demonstrated senior management commitment to identify and mitigate potential and actual adverse impacts related to the facility's activities that directly affect COI and work to optimise benefits to those communities?				
	2. Have roles and responsibilities for implementing commitments been assigned?				
	3. Have actual and potential adverse impacts related to the facility's activities that directly affect COI been identified by the facility?				
	4. Can the facility demonstrate some efforts to mitigate identified adverse impacts?				
	5. Are some decisions made related to contributions to the community?				
	6. Does the facility do some monitoring of adverse impacts, trends, and management practices?				
	<i>If you have answered "Yes" to all the Level B questions, continue to the Level A questions. If you have not answered "Yes" to all the Level B questions, assess the facility as a Level C.</i>				
Level A	1. Are processes in place to engage with COI on the identification, prioritisation and avoidance or mitigation of potential and actual adverse impacts related to the facility's activities that directly affect COI?				
	2. In prioritising potential and actual adverse impacts, do processes consider the relevancy of the following on COI:				
	a. Social adverse impacts that may be attributed to the presence of the facility?				
	b. Environmental adverse impacts, including those associated with tailings management (as applicable), that may directly affect communities?				
	c. Adverse impacts related to community safety and health?				

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level A	3. Do engagement processes include measures to facilitate and encourage the participation of under-represented COI and to determine which COI are most significantly impacted by identified potential and actual adverse impacts?				
	4. Have action plans for prioritised impacts been informed through engagement with relevant COI and are they being implemented?				
	a. Do action plans include the identification of relevant objectives or targets and are these tracked, reviewed, and adaptively managed with affected COI?				
	b. Do action plans include consideration for how actions aimed at mitigating impacts can also result in optimised benefits for COI?				
	5. Are processes in place to engage with relevant COI on the identification and prioritisation of opportunities to optimise benefits for COI, which could include, but is not limited to, consideration of local procurement and employment?				
	6. Have action plans for prioritised opportunities to optimise benefits been developed through engagement with relevant COI and are they being implemented?				
	a. Do action plans include the identification of relevant objectives or targets and are these tracked, reviewed, and adaptively managed with affected COI?				
	7. Are processes in place to engage with relevant COI on contributions made by the facility to community development initiatives?				
	8. Are contributions communicated publicly?				
	9. Is baseline data collected for prioritised adverse impacts?				
10. Are metrics established to track action plan implementation and effectiveness?					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level A	11. Are results reviewed with affected COI on a regular and pre-determined basis?				
	<i>If you have answered "Yes" to all the Level A questions, continue to the Level AA questions. If you have not answered "Yes" to all the Level A questions, assess the facility as a Level B.</i>				
Level AA	1. Are processes in place to avoid or mitigate prioritised adverse impacts that incorporate collaborative decision-making with relevant COI?				
	2. Do the identification and prioritisation of opportunities to optimise benefits for COI consider opportunities that:				
	a. Benefit a broad spectrum of the community?				
	b. Can be self-sustaining beyond the productive life of the facility?				
	3. Are processes in place to optimise benefits for COI that incorporate collaborative decision-making with relevant COI?				
	4. Are decisions on how to direct contributions made by the facility to the community made collaboratively with COI?				
	5. In collaboration with COI, where possible, does the facility regularly measure and analyse the trends of identified prioritised adverse impacts?				
6. Does the facility also regularly measure and analyse opportunities to optimise benefits and work with COI to prioritise and adaptively manage how gaps are addressed?					
<i>If you have answered "Yes" to all the Level AA questions, continue to the Level AAA questions. If you have not answered "Yes" to all the Level AA questions, assess the facility as a Level A.</i>					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AAA	1. Where such processes do not already exist, is the facility working with COI to implement decision-making processes to empower COI to manage ongoing adverse impact mitigation and benefit optimisation after the productive life of the facility ends?				
	a. Do these processes include the identification of potential partnerships and the role of relevant levels of government to ensure the mitigation and optimisation can be sustained?				
	b. Where opportunities to minimise long-term adverse impacts and/or optimise benefits beyond the productive life of the facility have been identified, are they being incorporated into long-term investment decisions and/or closure plans to ensure long-term sustainability?				
	2. Where COI do not already have a shared vision and community development plan (or equivalent) and where COI is interested, does the facility provide support to enable COI to begin planning?				
	3. Does the facility collaborate with affected COI on reviewing the effectiveness of:				
	a. Actions aimed at optimising priority opportunities for community benefits?				
	b. Actions aimed at mitigating adverse impacts?				
	<i>If you have answered "Yes" to all the Level AAA questions, assess the facility as a Level AAA. If you have not answered "Yes" to all the Level AAA questions, assess the facility as a Level AA.</i>				
ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 4				Level: _____	

INDICATOR 5: COI RESPONSE MECHANISM

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level B	1. Does an informal feedback process exist?				
	2. Is a formal feedback system either planned or in development?				
	<i>If you have answered "Yes" to all the Level B questions, continue to the Level A questions. If you have not answered "Yes" to all the Level B questions, assess the facility as a Level C.</i>				
Level A	1. Is there a response mechanism in place with a clear process to receive, manage and respond to COI grievances, comments and requests, which:				
	a. Captures reported incidents, concerns, and feedback?				
	b. Assesses and determines which grievances require remedy?				
	c. Responds in a timely manner?				
	d. Is accessible?				
	2. Does the facility have a process to track issues and concerns raised by COI, including status, and does it communicate status updates?				
	3. Are COI proactively and clearly informed on how to access the facility's response mechanism?				
<i>If you have answered "Yes" to all the Level A questions, continue to the Level AA questions. If you have not answered "Yes" to all the Level A questions, assess the facility as a Level B.</i>					

	QUESTION	Y	N	NA	DESCRIPTION & EVIDENCE
Level AA	1. Is the response mechanism collaboratively developed with directly affected COI?				
	2. Is the response mechanism reviewed at least annually to identify opportunities for continuous improvement?				
	<i>If you have answered "Yes" to all the Level AA questions, continue to the Level AAA questions. If you have not answered "Yes" to all the Level AA questions, assess the facility as a Level A.</i>				
Level AAA	1. Are there mechanisms in place to escalate complaints if not adequately dealt with by the COI response mechanism?				
	2. Does the response mechanism include post-process follow-up with mechanism users?				
	3. Has a review of the effectiveness of the response mechanism been conducted and are identified corrective actions being implemented?				
<i>If you have answered "Yes" to all the Level AAA questions, assess the facility as a Level AAA. If you have not answered "Yes" to all the Level AAA questions, assess the facility as a Level AA.</i>					
ASSESSED LEVEL OF PERFORMANCE FOR INDICATOR 5				Level: _____	