

# Submission for the Inquiry into and Report on Best Practice Indigenous Engagement by Corporations

November 2021

## Submission by the Responsible Investment Association Australasia

The [Responsible Investment Association Australasia \(RIAA\)](#) welcomes the opportunity to make a submission for the Standing Committee on Indigenous Affairs inquiry: *How the corporate sector establishes models of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers*. The submission is made by the Responsible Investment Association of Australasia (RIAA), reflecting the work of its members' First Nations Peoples' Rights Working Group.

RIAA acknowledges the Traditional Owners of the lands on which our offices are located: the Wurundjeri people of the Kulin nation and the Gadigal people of the Eora nation. We recognise their continuing connection to land, waters, species and culture. We acknowledge their ongoing status as the First Peoples of Australia and pay our respects to their Ancestors and Elders past, present and emerging.

## About RIAA and its members

The Responsible Investment Association Australasia (RIAA) champions responsible investing and a sustainable financial system in Australia and New Zealand. RIAA is dedicated to ensuring capital is aligned with achieving a healthy society, environment and economy.

With over 450 members managing more than USD29 trillion in assets globally, the [Responsible Investment Association Australasia \(RIAA\)](#) is the largest and most active network of people and organisations engaged in responsible, ethical and impact investing across Australia and New Zealand. Our membership includes super funds, fund managers, banks, consultants, researchers, brokers, impact investors, property managers, trusts, foundations, faith-based groups, financial advisers and individuals.

In 2020 RIAA established a First Nations Peoples' Rights Working Group, in response to member demand and to deliver to their needs. Reflecting the importance RIAA members place on the rights of First Nations Peoples, it is one of RIAA's most active members working groups. It includes organisations from across RIAA's membership base, including many of Australia's leading finance organisations.

The purpose of RIAA's First Nations Peoples' Rights Working Group is to:

1. **Address and advance the rights** of First Nations peoples and others subjected to systemic racism.
2. **Elevate First Nations peoples' participation** and voices in investment and the Responsible Investment community.
3. **Increase access, scale and impact** of First Nations peoples' related investment activity.

## Introduction

Improving corporate engagement with First Nations consumers requires a set of responses that, in addition to commitment from the private sector, would benefit from government support. RIAA's First Nations Peoples Rights Working Group would like to draw the House Indigenous Affairs Committee's attention to the activities being carried out by the Working Group and its members. These activities seek to raise the standard of investor engagement with Aboriginal and Torres Strait Islander people to enable participation that ensures principles of self-determination and Free, Prior and Informed consent (FPIC) are upheld by investors and the companies they are invested in.

These activities are important to responsible investors as they recognise the need to ensure that implementation of any engagement approach between corporations and Indigenous consumers addresses key imbalances in the relational knowledge and power held by corporations in discourse with Aboriginal and Torres Strait Islander peoples. They also highlight the increasing importance to investors of upholding the right to Free, Prior and Informed consent by First Nations peoples, and the importance of meaningful engagement and genuine partnership.

By working to support the achievement of Free, Prior and Informed consent, supporting self-determination, and more broadly respecting First Nations peoples, RIAA's members increasingly view this as consistent with and supportive of better investment outcomes from the businesses and assets they are invested in. This belief is based on an observation that companies who support better outcomes for First Nations peoples make better investments, face fewer risks, gain more support from the communities in which they are based, and therefore have better operational outcomes.

## Key points

- **Across the finance sector, investors have expressed support for the principles of self-determination and Free, Prior and Informed consent. Investors increasingly understand that legislative frameworks and international agreements, such as the UN Sustainable Development Goals (SDGs) and the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), can provide an important baseline to support these principles, as well as reduce risks and uncertainty for investors.**
  - **Australian Sustainable Finance Initiative (ASFI):** A commitment to Free, Prior and Informed consent is firmly captured in the [Australian Sustainable Finance Initiative Roadmap](#). The ASFI Roadmap, launched in December 2020, is a collaborative effort bringing together more than 140 participants from over 80 organisations across Australia's financial system, including financial institutions, civil society, academia, regulators and government. The Roadmap is an industry-driven plan for aligning Australia's financial system with a sustainable, resilient and prosperous future for all Australians. The Roadmap includes several recommendations specifically related to First Peoples' self-determination, including:
    - the establishment of an Indigenous-led First Peoples Financial Services Office to facilitate financial system engagement with Indigenous communities and organisations

- on a range of issues related to the inclusive design and delivery of financial services; and
  - codifying the principles of Free, Prior and Informed consent into investment decision-making.
- **RIAA Submission in response to the Interim Voice Co-Design Report:** [this submission](#) outlines the finance sector's support for the Uluru Statement from the Heart, and the finance sector's position on ensuring that First Nations' voices are present in critical decision-making positions. Many of RIAA's members have pledged their support for the Uluru Statement from the Heart and its call for the establishment of a First Nations voice in the constitution.
- **Investors are increasingly concerned that companies they are invested in do not cause harm to Indigenous land and property, and want to ensure that Indigenous land rights, cultural heritage and intellectual property are protected for future generations. The case for doing so is overwhelmingly moral and fundamentally financial. The following initiatives of RIAA's First Nations People's Rights Working Group are examples of practical efforts that investors are making to ensure the appropriate management of cultural heritage:**
  - **RIAA's Investor Toolkit: An Investor Focus on Indigenous Peoples' Rights and Cultural Heritage Protection:** This investor guide prepared by the RIAA Human Rights Working Group and the First Nations Peoples' Rights Working Group includes [guidance to assist investors](#) to identify key aspects of corporate disclosure and engagement and assess how well companies manage cultural heritage and relationships with Indigenous partners.
  - **Investor response to the WA Aboriginal Cultural Heritage Bill 2021:** A number of [large Australian investor and business groups including RIAA](#) have expressed concern that the draft WA Aboriginal Cultural Heritage Bill is insufficient and will fail to make meaningful change in cultural heritage protection. Concerns have been raised by a number of Investor groups through a joint statement release by the Dhawura Ngilan Business and Investor Initiative - led by the First Nations Heritage Protection Alliance in partnership with Global Compact Network Australia (GCNA), and the Responsible Investment Association Australasia (RIAA) – together with the Australian Council of Superannuation Investors (ACSI).
- **RIAA's member First Nations Peoples' Rights Working Group is engaging with First Nations peoples and business leaders to ensure engagement between investors and indigenous communities is active and ongoing and ensures First Nations Peoples' representation at all levels of decision-making.**
  - The RIAA First Nations Peoples' Rights Working Group is addressing its responsibility to First Nations Peoples through its 7 objectives:
    1. Collaborate with First Nations peoples to increase their voices in responsible investment and sustainable finance;
    2. Assist with facilitating First Nations peoples' conversations for the responsible investment sector;
    3. Facilitate education on First Nations' peoples' rights, empowerment, and leadership for the responsible investment sector, including educating Indigenous investors on responsible investment markets;
    4. Collaborate with First Nations peoples to promote awareness about UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and develop guidance on minimum standards and application of frameworks/tools;

5. Collaborate to support First Nations peoples' investment markets and economic empowerment, including support Indigenous investors in becoming members of RIAA;
  6. Support RIAA members to challenge racism, support Truth Telling and establish inclusive culture, including RIAA developing and embarking on its own Reconciliation Action Plan (RAP); and
  7. Advocate for policy that reduces gaps in wealth, income and wellbeing.
- **Dhawura Ngilan Business and Investor Initiative:** This initiative brings together First Nations, business and investor communities, and is focused on strengthening Australia's First People's heritage laws and standards for the private sector to uphold the human rights of First Peoples. It aims to build partnerships and deliver resources that provide guidance to investors and businesses to engage with First Nations Peoples more respectfully. [Companies such as Lendlease](#) have already partnered with the Initiative to reconcile and build an understanding of place, acknowledging the significance of Country and heritage as foundations for a more resilient, dynamic and connected society.
  - **First Nations Heritage Protection Alliance + RIAA leaders meeting:** This bi-annual meeting brings together First Nations leaders from across Australia representing Aboriginal Land Councils, Native Title Representative Bodies and Aboriginal and Torres Strait Islander Community Controlled Organisations and leaders in responsible investment such as HESTA, abrdn and Regnan. The Alliance and RIAA have a shared commitment to UNDRIP and discuss and implement activities to support its upholding in Australia.
  - **RI Conference 2021 – Keynote address to investors:** RIAA's Responsible Investment Conference is the largest conference of responsible investors in Australia. RIAA welcomed the chair of the First Nations Heritage Protection Alliance and the National Native Title Council, Kado Muir, to provide a keynote address to investors, as well as chairing a panel on the outcomes of the destruction of the heritage site at Juukan Gorge. Key takeaways from the conversation between Kado Muir and investors was the centrality of the concept of "Current Free, Prior and Informed consent", the idea that engagement is ongoing and should not end while corporate activities are at risk of impacting native title land, and the implementation of a strategic approach to engagement that shifts power away from corporations and creates equality in knowledge sharing and decision-making power.
- **RIAA's members are increasingly willing to engage with the companies they're invested in on the issue of engagement with First Nations people, in particular, in relation to cultural heritage protection. A number of RIAA members have expressed a commitment to, and have sought solutions from, corporations to support the protection and self-determination of Indigenous consumers and ensure that engagement results in improved outcomes for Indigenous peoples.**
    - **Investor Response to Woolworths - Milford Asset Management:** Milford raised concerns with Woolworths' governance and approval processes in relation to the proposed Dan Murphy's store in the Northern Territory, concerned with the lack of genuine consultation with community members by Woolworths ahead of the development. Milford recommended the terms of reference of the Independent Panel Review be extended to give the Panel the power to recommend Endeavour did not proceed with the proposed store, as when the Review was announced by the company, the Panel did not have this power. In April 2021, Woolworths announced that the Dan Murphy's development in Darwin would not go ahead, in line with the final recommendation of the independent review panel.
    - **Investor Response to Rio Tinto - HESTA:** HESTA [led an engagement](#) effort, supported by a group of Australian, UK and European investors, that sought key transparency commitments aimed at giving investors' confidence the company was making progress on

managing cultural heritage and fostering respectful partnerships with Indigenous communities. Investors put forward very clear requests around what disclosure and governance arrangements were required to ensure that the tragic heritage destruction at Juukan Gorge never happens again. As a result of the engagement, Rio announced it would support increased transparency around its approach to cultural heritage with additional regular disclosure on its activities.

RIAA trusts these examples of engagement between investors and First Nations peoples will reinforce to the Committee the importance of ensuring a genuine partnership between corporates and First Nations peoples, and that any model of best practice to foster better engagement with Aboriginal and Torres Strait Islander consumers must uphold the human rights of First Peoples to self-determination and Free, Prior and Informed Consent. Any engagement approach between corporations and Indigenous consumers must address the power imbalance between corporations and Aboriginal and Torres Strait Islander peoples.