



Statement on Working with Indigenous Communities

This statement has been developed by H.E.S.T Australia Limited ('the Trustee' or 'HESTA') and should be read in conjunction with the HESTA Responsible Investment Policy. This Statement is aligned with the Trustee's duty to comply with the 'sole purpose test' set out in the *Superannuation Industry (Supervision) Act 1993*.

Our vision is for a respectful, confident and equitable Australia. Through our commitment to reconciliation, HESTA is playing an active role in supporting real and lasting change in our organisation, the superannuation industry and the health and community services sector. This statement outlines how those commitments will be applied to build lasting value in our investment portfolio.

HESTA was the first stand-alone superannuation fund to develop a Reconciliation Action Plan (RAP). It recognises the role HESTA, the superannuation industry and our members can play in our national reconciliation journey.

- We are committed to building community partnerships grounded in recognition and respect
- We will advocate for equity outcomes between non-Aboriginal and Aboriginal people
- We can advance the aims of reconciliation through our role as a responsible Australian company and a responsible Australian investor.

The principles below outline how we believe companies can achieve these objectives and the actions investors can take to manage this risk in their portfolios by supporting fair and sustainable outcomes for companies and Indigenous communities.

Investor Expectations of Companies

1. Embed a 'should' culture rather than a 'can' culture in relation to working with Indigenous communities

Australian company operations touch and affect Indigenous communities in different ways and we encourage companies to consider how their operations interact and affect these communities. We believe early, open, genuine and ongoing consultation with communities on issues that affect them is the best way for companies to approach their work with Indigenous communities.

An ongoing engagement approach should be supported by a company culture which asks decision-makers whether they 'should' do something rather than whether they 'can' do something or if it is legally possible to do something.

Current laws do not always prioritise 'should' over 'can' and it is the responsibility of the company to frequently ask this question internally.

The risks to a company not taking this approach include:

- costs associated with the fracturing of relationships with relevant Indigenous communities
- not meeting broader societal expectations about Indigenous heritage
- possible loss of the company's commercial or social license to operate.

It is critical that companies and investors making long-term decisions anticipate how societies will value heritage and Indigenous culture in the future and seek to make decisions that consider future reputational and emerging legal risks.

The board must have oversight of how companies monitor shifting societal expectations and if decisions made in the past remain appropriate. Disclosure must be designed in a way that allows investors to understand the processes the board undertakes to ensure appropriate oversight and to make valid assessments of its efficacy.

2. Indigenous Communities own and determine the value of their intangible heritage

Companies engaging with Indigenous communities on how their operations may affect heritage should anchor discussions to the principle that Indigenous people own and determine the value of their tangible and intangible heritage. Further, that they control that heritage and determine who has access to it, according to the right of free, prior and informed consent. These principles of engagement should apply whatever the formal legal rights of the companies.

This will be evidenced in disclosures which convey a summary of the challenges Indigenous communities have put forward to companies through consultation and an explanation of how companies have addressed these challenges

3. Seek legitimate agreements through long-term relationship building

The only appropriate approach for businesses when engaging with Indigenous communities is one of ongoing dialogue and relationship building.

Long-term legitimacy is only obtained through genuine, respectful engagement, where companies acknowledge power dynamics that might exist in this type of engagement. Respectful engagement considers differences in language, cosmovision, culture and legal systems in all steps of engagement and negotiation. Recognising power dynamics involves acknowledging historic and present situations that might put one party at a disadvantage. Addressing that power imbalance means ensuring there is a genuine empowerment of both groups to voice and defend their interests.

Businesses must recognise that communities' perspectives can evolve, which might lead to a change in agreed decisions. Therefore, ongoing communication, combined with well-functioning, accessible and culturally-appropriate dispute resolution mechanisms are critical.

It is the responsibility of the company to ensure all parties have full and equal access to information, representation, and rights of appeal. They should also seek to have the right skills in place to ensure appropriate ongoing dialogue locally.

Companies conducting negotiations should commit in good faith to the principles of Free Prior Informed Consent and those outlined in both the UN Guiding Principles for Business and Human Rights and the UN Declaration on the Rights of Indigenous Peoples. Robust governance arrangements should exist to ensure these principles are properly embedded in the operational areas of the organisation.

It is the responsibility of boards to ensure social performance is adequately assessed and achieved. Boards must also seek to protect and enhance the social licence of the company This involves ensuring companies' actions are not only legal but also legitimate in the eyes of key stakeholders.

4. Ensure respectful benefit sharing

Companies must seek to develop mutually beneficial relationships with the communities surrounding their operations. These relationships must aim to achieve a respectful benefit (and cost) sharing model that goes beyond job creation, and that considers historical, cultural and societal aspects. Communities truly benefit when economic incentives support their long-term progress and well-being, and provide an opportunity to live and celebrate their culture and values.

There should be clear accountability and board oversight of these relationships.

5. Lobbying should align with the above principles

Companies should seek to influence legal systems to ensure they more accurately reflect current and future societies' value of Indigenous heritage and culture.

When there is a large gap between regulation and societal expectations, companies get inaccurate signals about the limits within which they should operate. This exposes them to potential reputational and future legal risks which can erode the value of a company overtime.

Boards must have oversight about the consistency of an organisation's lobbying and advocacy efforts and the values, culture and operations of companies.

6. Disclosure and transparency about Indigenous relations

Lack of disclosure about social performance and community relations can represent a material risk for investors. Therefore, we expect organisations in our investment value chain to make appropriate disclosures including targets and progress towards them.

Investor Action

We believe investors can support fair and sustainable outcomes for companies and Indigenous communities. We have outlined our HESTA commitments below:

- i) *Reviewing the metrics used to assess and understand how a company is performing in building mutually beneficial relationships with Indigenous communities.*

As investors, we were dismayed at Rio Tinto's destruction of culturally significant caves in the Juukan Gorge; not only because of the priceless heritage destroyed or the costs borne by shareholders from the fallout of these actions but because as a result of Rio Tinto's statements and disclosures, we believed them to be leaders in this field. There are obviously lessons to be learnt from this incident and this event has prompted us to interrogate the metrics we were using and the questions we were asking to assess company performance in this area.

We have developed specific engagement questions for companies to assess their approach to relationship building to help us more appropriately assess company risks. This includes:

- Organisational structure and oversight of heritage management function;
- Skills and experience of relevant teams;
- Confidentiality clauses in ILU agreements;
- Approach to benefit sharing; and
- Social performance of company and inclusion of feedback from Traditional Owners.

HESTA commits to reviewing the metrics used to assess and understand how a company is performing in building mutually beneficial relationships with Indigenous communities and sharing these with the broader investment community.

- ii) *Encouraging companies to meet the expectations outlined above through direct engagement.*

At HESTA, we have assessed which companies in our portfolio require relationships with Traditional Owners to obtain and maintain their social license to operate. We will meet directly with these companies to understand their philosophy to building relationships with Traditional Owners and to ask the questions referred above.

We will use outcomes from these meetings as a basis for deciding our next steps including considering whether lodging shareholder resolutions ourselves or supporting shareholder resolutions lodged by others is an appropriate course of action to achieve more sustainable outcomes.

HESTA commits to engaging directly with companies on these risks and taking appropriate action, as owners, where the risks are not adequately captured, monitored and mitigated.

- iii) *Building relationships with a diverse set of stakeholders to broaden the understanding of the management challenge.*

At HESTA, we are working with a broad set of stakeholders to:

- i) Understand the legal barriers to sustainable outcomes for companies and Indigenous communities;
- ii) Gather knowledge about potential sources of risk in this area; and
- iii) Test our ideas about the right questions to ask and metrics to apply.

HESTA commits to ongoing relationship building to continuously improve our understanding and ability to influence heritage issues through the investment portfolio.

- iv) *Engaging in public policy debate and advocating for legislative and regulatory change where appropriate.*

We are providing an investor perspective in the public policy debate. We are also closely monitoring opportunities to build coalitions to advocate and support legislative and regulatory changes where we believe reform will lead to more sustainable outcomes for companies and Indigenous communities, thus ultimately providing certainty for investors.

HESTA commits to using our advocacy voice to pursue appropriate systemic change.

- v) *Acting collectively on the issue of Indigenous relations to achieve greater impact.*

At HESTA, we will encourage the investment industry to adopt a similar principles-based approach to the one outlined in this Statement. We intend to share this document widely and to encourage collaboration to develop a united mainstream approach to communicating investors' expectations of companies.

HESTA commits to leadership and collaboration in an open dialogue with the superannuation system participants.