



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his visit to Australia**

**Comments by the State\***

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\* The present document is being issued without formal editing.



## Inputs for the United Nations Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes report

1. The Australian Government has the pleasure to submit the below information in relation to the Final Report of the Visit to Australia of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Dr Marcos Orellana.

<i>Paragraph</i>	<i>Comment</i>
13	Australian Government DCCEEW: Australia has developed a National Plan of Action for the Global Framework on Chemicals (GFC) and transmitted this to the GFC Secretariat in July 2024. Australia's National Plan of Action outlines steps that Australia is taking and is intending to take to support the achievement of the five strategic objectives and 28 targets of the GFC. It will be updated regularly in response to relevant Resolutions of the International Conference and changes in Australian chemicals and waste policy and legislation.
17	Australian Government DCCEEW: Australia is currently developing an updated National Implementation Plan for the Stockholm Convention. We expect to transmit this to the Stockholm Convention Secretariat in July 2024.
17	Victoria EPA: Australia has robust environmental regulations in place to address emissions from industries such as waste to energy plants. For example, the Guideline for Assessing and Minimizing Air Pollution in Victoria goes beyond the Stockholm POPs to include over 100 chemical contaminants (including the 'dirty dozen') and provides the framework to assess and manage risks both to air and from deposition of contamination to land and water. To operate in the state of Victoria, industries must understand their risks, implement controls and review the performance of their controls.
18	Australian Government DCCEEW: Australia is currently developing a National Implementation Plan for the Minamata Convention. We expect to transmit it to the Minamata Convention Secretariat in 2024.
25	Australian Government DAFF: Intergovernmental Agreements have been adopted to ensure that relevant component of National regulatory frameworks are implemented through state and territory legislation.
26	Victoria EPA: Australia's annual average criteria for particulate matter (PM2.5) at 8 µg/m <sup>3</sup> , is lower than most OECD countries current goal and in several cases five-year goal, most notably this includes UK, Japan, South Korea, USA, Canada and EU member states. For example, the current EU annual average of 20 µg/m <sup>3</sup> is proposed to be lowered to 10 µg/m <sup>3</sup> , the UK annual average of 20 µg/m <sup>3</sup> with a goal of 12 µg/m <sup>3</sup> by 2028. This means Australia's air quality guideline surpasses most OECD countries both now and for the foreseeable future. OECD data also indicates mean PM2.5 concentrations in Australia are lower than most OECD countries, with 2019 data reporting Australia within the top 7 countries for air quality.

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26	<p>NSW DCCEEW: The Australian Government intends to start further review of the national standards in 2025 under the National Clean Air Agreement. This can be an opportunity to review the standards against the latest available evidence including World Health Organisation Air Quality Standards.</p>
42	<p>Victoria DEECA: Significant actions have been taken in Victoria in response to the Hazelwood Mine Fire Inquiry. The Inspector-General for Emergency Management's final progress monitoring report notes that significant progress has been achieved to improve emergency management planning and coordination, health outcomes, and mine regulation and rehabilitation in the Latrobe Valley: <a href="https://www.igem.vic.gov.au/publications/publications/hazelwood-mine-fire-inquiry-progress-report-2022">https://www.igem.vic.gov.au/publications/publications/hazelwood-mine-fire-inquiry-progress-report-2022</a></p>
46	<p>Victoria DEECA: The Victorian Government is in the process of reviewing bonds to ensure mine owners meet their obligations to rehabilitate the sites.</p>
47	<p>Victoria DEECA: ENGIE's use of water at Hazelwood Mine to manage mine stability and fire risks is being undertaken in accordance with its mining licence, work plan, groundwater licence and a water supply agreement with Gippsland Water. As such, the partial filling of the mine void by ENGIE is being undertaken within approved regulatory permits and licences. The final rehabilitation arrangements for the Hazelwood Mine are subject to extensive environmental assessment as part of ENGIE's current preparation of its Environment Effects Statement (EES), its response to environmental assessment notices issued by the Environment Protection Authority Victoria, and submission of a Declared Mine Rehabilitation Plan for government approval. See 'Hazelwood mine pit and floodwater' here: <a href="#">Latrobe Valley coal mines - Resources Victoria</a>.</p>
49	<p>Victoria EPA: The review imposed restrictions on sulfur oxides and carbon monoxide as well as nitrous oxide.</p>
55	<p>Australian Government DCCEEW: The Ranger mine is not part of Kakadu, although it is surrounded by it. Australia does not agree with the view that uranium mining, which is outside the World Heritage area, is in breach of our international obligations under the World Heritage Convention. We are not aware of any such claim from the World Heritage Committee. We have a significant amount of data to clearly demonstrate that there has been no damage to Kakadu's World Heritage or Ramsar values as a result of Ranger mine.</p>
63	<p>Australian Government DISR: The Australian Government has provided compensation to Maralinga Traditional Owners and has an in-perpetuity agreement with Maralinga Tjarutja to ensure lands are safe for agreed and intended land use (2009 Handback Deed). All Australians have access to free medical care under Medicare.</p>
64	<p>Australian Government DISR: The lands at Maralinga and Emu Field are remediated - no further radiological clean-up is required. The Australian Government has an in-perpetuity arrangement via the 2009 Handback Deed with Maralinga Tjarutja to keep lands safe for agreed and</p>

Paragraph	Comment
	intended land use. The Australian Government is currently funding a site remediation project to remediate non-radiological materials (radiological materials remain safely isolated). The site remediation project is occurring with the free, prior and informed consent of the Maralinga Traditional Owners.
72	Australian Government DCCEEW: The framework endorsed by the environment ministers in November 2023 supports an earlier agreement by all of Australia's environment ministers in October 2022 to work with the private sector to design out waste and pollution, keep materials in use and foster markets to achieve a circular economy by 2030.
80	APVMA: Since September 2023, the Australian Pesticides and Veterinary Medicines Authority (APVMA) has published proposed regulatory decisions on four longstanding chemical reviews, and have finalised another review.
81	APVMA: Glyphosate is classified as "slightly hazardous" by the WHO. Numerous regulatory bodies, including the European Food Safety Authority (EFSA) have concluded that glyphosate is <i>not</i> carcinogenic, mutagenic, or reprotoxic. A summary is available here: <a href="https://www.efsa.europa.eu/sites/default/files/2023-07/glyphosate_factsheet.pdf">https://www.efsa.europa.eu/sites/default/files/2023-07/glyphosate_factsheet.pdf</a> NSW DCCEEW: It is true that the IARC classifies glyphosate as 'probably carcinogenic to humans'. However, this is based on hazard assessment only. The APVMA, based on a risk assessment (hazard and exposure) in the Australian context, concluded that there is no reliable evidence that products containing glyphosate pose a risk of causing cancer in humans. <a href="https://www.apvma.gov.au/resources/chemicals-news/glyphosate#:~:text=In%202015%2C%20the%20IARC%20published,see%20the%20IARC%20assessment%20explained.">https://www.apvma.gov.au/resources/chemicals-news/glyphosate#:~:text=In%202015%2C%20the%20IARC%20published,see%20the%20IARC%20assessment%20explained.</a>
87	Australian Government Department of Defence: Defence has continued to monitor for PFAS at and around RAAF Base Pearce, identifying monitoring locations (including some residential wells) to give sufficient data to understand any changes in the PFAS groundwater plume. This does not require that all residential wells need ongoing monitoring.
91	NSW DCCEEW: The PFAS National Environmental Management Plan is a cross jurisdictional and cross government agency collaboration through the National Chemicals Working Group. It is a coordinated response across all Australian jurisdictions and New Zealand on the significant issue of PFAS. It is quite unique for a toxics response and a demonstration of a collaborative process for a consistent approach and improved outcomes for the environment and communities.
93	Australian Government DISR: Under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009, consultation requirements are placed on a titleholder to consult with all relevant persons who have functions, interests and activities that may be impacted by the proposed activity. In the Federal Court decision in Santos NA Barossa Pty Ltd v Tipakalippa (the Tipakalippa Case), the Court found that Mr Tipakalippa was a

Paragraph	Comment
	<p>relevant person who was required to be consulted under the Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009 during development of the Barossa Drilling Environment Plan, and that the titleholder, Santos, had not met this requirement. The decision has set aside the National Offshore Petroleum Safety and Environmental Management Authority's (NOPSEMA) approval of the Barossa Drilling Environment Plan. Without an accepted environment plan in force, the titleholder cannot continue to undertake development drilling activities. The titleholder will need to have a new environment plan accepted by NOPSEMA before the proposed activities can commence.</p> <p>The Tipakalippa Case above was in relation to the Barossa Drilling Environment Plan and was successfully challenged by Mr Tipakalippa. A separate court case referenced in the Special Rapporteur's report was in relation to the environment plan for the construction of a pipeline (Munkara v Santos NA Barossa Pty Ltd (No 3) [2024] FCA 9). The court did not consider consultation in this case but whether Santos was under an obligation to submit a revised environment plan on the basis that there was a 'significant new environmental risk' to their cultural heritage, being both intangible and tangible. The Federal Court found in favour of Santos and discharged the injunctions from earlier proceedings relating to the construction of the pipeline.</p>
94	<p>Northern Territory Government:</p> <p>The Northern Territory Government engaged Justice Pepper to examine the environmental risks and impacts of onshore gas development. The Pepper inquiry made 135 recommendations, all of which have been accepted and implemented by the Northern Territory government. The Scientific Inquiry into Hydraulic Fracturing Final Implementation Report sets out the work undertaken to fulfil the recommendations made by the Pepper Inquiry. Final Implementation Report   Hydraulic Fracturing in the Northern Territory.</p> <p>The independent Ground Water Strategic Regional Environmental and Baseline Assessment (SREBA) study, carried out in the Beetaloo Sub Basin area, demonstrated the limited impact that activity in the area would have on ground water sources over years. The SREBA can be accessed publicly at: <a href="https://depws.nt.gov.au/onshore-gas/sreba">https://depws.nt.gov.au/onshore-gas/sreba</a>.</p> <p>We note the Social, Cultural and Economic SREBA study, carried out by the University of Queensland speaks to the fact of Human Rights as the lead consideration and the recommendations, which government is working to implement, go to ensuring Aboriginal people have a seat at the table. The Social, Cultural and Economic SREBA can be accessed here <a href="https://depws.nt.gov.au/onshore-gas/sreba/study-domains/social,-cultural-and-economic">https://depws.nt.gov.au/onshore-gas/sreba/study-domains/social,-cultural-and-economic</a>.</p> <p>Stakeholder engagement, including with Aboriginal people through Aboriginal Land Councils and other mechanisms, is a mandatory precondition to doing any activity under environmental law. This consultation is a required as part of the Environment Management Plan and must be included for the Minister for Environment to make a decision.</p> <p>Most of the Northern Territory's landmass and coastline is subject to some form of Aboriginal right or interest.</p> <p>Combined, the Aboriginal Land Rights (Northern Territory) Act 1976 (the ALRA), the Native Title Act 1993 (the NTA), and the Northern Territory Aboriginal Sacred Sites Act 1989 (the Sacred Sites Act) provide the Aboriginal people of the Northern Territory with the strongest land rights and traditional decision making powers in Australia.</p> <p>Protection of Aboriginal cultural rights and Aboriginal communities is set out in ALRA.</p>

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	<p>For example:  under the ALRA, you need permission (usually through an agreement with the Traditional Aboriginal Owners) to carry out activities on Aboriginal land  a law of the Northern Territory cannot be inconsistent with the ALRA, and where it is, the ALRA prevails  the Northern Territory Government cannot compulsorily acquire Aboriginal land  Traditional Aboriginal Owners can veto mining on Aboriginal land  the ALRA makes it an offence to enter or remain on land that is a sacred site without permission (this applies across the entire Northern Territory, including its coastline, out to 3NM).</p>
95	<p>Northern Territory Government:  The Middle Arm Sustainable Development Precinct project will be subject to assessment as a strategic proposal under both the <u><i>NT Environment Protection Act 2019</i></u> and the <u><i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i></u>.  The project is currently in the planning and concept design phase, which includes the preparation of an Environmental Impact Statement (EIS) for the strategic proposal. The purpose of this draft EIS is to provide a comprehensive assessment of potential environmental impacts associated with the Precinct and will be placed on public exhibition for comment. Assessment of potential human health impacts will form part of the strategic environmental assessment process.  Current details on the Middle Arm project can be accessed here:  <a href="https://middlearmprecinct.nt.gov.au/">https://middlearmprecinct.nt.gov.au/</a></p>

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