



## Australian Government

### Department of the Prime Minister and Cabinet

ANDREW FISHER BUILDING  
ONE NATIONAL CIRCUIT  
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OGP Criteria and Standards Sub-committee  
C/- Open Government Partnership  
1110 Vermont Avenue NW  
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Washington, DC 20005  
UNITED STATES

Dear Members

#### **Response Policy: Concerns raised by Mr Chris Snow**

Thank you for the opportunity to respond to the letter from Mr Snow dated 5 September 2016.

The Australian Government has been working constructively with civil society over the past year to develop ambitious commitments for our first National Action Plan.

The Australian Government established the Interim Working Group to provide a collaborative forum for government officials and civil society representatives to discuss drafting of Australia's National Action Plan. This followed a range of public consultation activities undertaken from November 2015 to April 2016 to seek ideas on potential commitments for the Plan. At no stage has the Interim Working Group replaced or prevented civil society participation in the process.

The Interim Working Group's Terms of Reference require the group to facilitate broader public consultation. The Australian Government is currently consulting publicly on the draft of Australia's National Action Plan, with the Interim Working Group helping facilitate broader engagement, including by co-hosting public information sessions across Australia.

There is no evidence to support Mr Snow's assertion that the Interim Working Group established in August 2016 is a government organised non-government organisation.

Members of the Interim Working Group were selected following an open and transparent expression of interest process. Information about the selection process and criteria was made available through the OGP Australia blog, media release, email to the OGP mailing list and social media. Applicants were assessed with

regards to breadth and diversity against factors such as demographics, geographical region, access to a variety of sectors and industry, experience in open government issues.

The selected civil society representatives have experience across the spectrum of open government issues, and bring a wide variety of backgrounds and skillsets. They also have a long history of advocacy on open government issues and have, on a number of occasions, publicly disagreed with government policy.

The group has been broadly welcomed by stakeholders, and the Australian Government has received no other complaints about its make-up or the process to establish it.

A detailed response to each of the 'principal concerns' raised by Mr Snow is attached to this letter.

As the name suggests, the Interim Working Group is not intended to be a permanent body. One of the commitments proposed in Australia's first National Action Plan is to establish a permanent dialogue mechanism on open government, which includes a multi-stakeholder forum. The Government will partner with the public and organisations outside of government to determine the structure, role, governance and membership of the multi-stakeholder forum.

The Department of the Prime Minister and Cabinet has consulted the OGP Support Unit on engagement activities undertaken in developing the National Action Plan, including the establishment of the Interim Working Group.

Please do not hesitate to contact me should you require any further information.

Yours sincerely



Helen Owens  
Principal Advisor  
Public Data Branch  
Department of the Prime Minister and Cabinet

28 October 2016

## **Response to the principal concerns raised by Mr Snow**

### **1. The Department of the Prime Minister and Cabinet (PM&C) set the criteria for non-government membership**

It is common practice for governments to set selection criteria for stakeholder consultation bodies. Many other OGP member countries have used a similar model and this approach is also in line with the OGP's guidance on *Designing and Managing an OGP Multistakeholder Forum*.

The selection criteria for the Interim Working Group was published on the OGP Australia blog. Applicants were asked to provide written expressions of interest outlining relevant experience and expertise related to supporting transparency, accountability and open government. In assessing expressions of interest, PM&C considered:

- the breadth and diversity of representatives (across demographics, geographic regions, and access to a variety of sectors and industries);
- experience in open government, using open data and engaging with stakeholders and/or government; and
- for co-chairs, experience in chairing similar groups.

PM&C has endeavoured to be as transparent as possible in reporting the activities of the Interim Working Group. Agendas, papers and minutes from Interim Working Group meetings were published on the OGP Australia blog and members of the public were encouraged to provide input and feedback through the blog or via email.

### **2. PM&C selected the non-government members**

Again, selection of non-government members by the Government based on selection criteria is common practice and in line with OGP guidance. PM&C published information about the selected members, including reasons for their inclusion on the Interim Working Group, and offered feedback to unsuccessful applicants.

Self-selection by the Australian Open Government Partnership Civil Society Network was considered, but PM&C decided that an open expression of interest process would offer greater opportunities for attracting a more diverse group of people, with less risk of skewing representation.

### **3. Law Council of Australia's participation in the Interim Working Group**

The Law Council of Australia is the peak national representative body of the Australian legal profession. It works for the improvement of the law and administration of justice. The Law Council of Australia seeks to work productively and effectively with governments and national regulators, but will proactively engage in lobbying the Government on issues relevant to the profession. For example see: <http://www.lawcouncil.asn.au/lawcouncil/index.php/current-issues/>.

Ms Fiona McLeod is the President-elect of the Law Council of Australia and has also previously served as the President of the Australian Bar Association, as Chair of the Victorian Bar, and as a member of the Law Council Executive Board. Fiona has had a distinguished career and has substantial experience working with government, corporate and non-government sectors. Having limited involvement in OGP processes in the past, Ms McLeod has been able to take an independent and impartial role in her capacity as co-chair.

#### **4. The Australian Open Government Partnership Civil Society Network's participation in the Interim Working Group**

The Australian Open Government Partnership Civil Society Network (the Network) is a self-organised coalition of civil society organisations and individuals interested in open government matters. The Network's structure and Terms of Reference are largely based on the UK's Open Government Civil Society Network.

The Network states that its role is to "collaborate with and challenge governments in Australia to develop and implement ambitious open government reforms through Australia's membership of the Open Government Partnership".

The Network or members of the Network have proactively lobbied the Government on open government issues, especially with regards to the development of ambitious commitments for Australia's first National Action Plan.

#### **5. Mr Snow's letter was not posted on the OGP Australia website**

Mr Snow's letter was addressed to the Interim Working Group and for the consideration of members. The letter was circulated to Interim Working Group members on 6 September 2016. At no time did Mr Snow ask for the letter to be published on the OGP Australia website. As the letter contained personal information (including Mr Snow's address and phone number), it would not be appropriate for us to publish the letter without express, written permission.