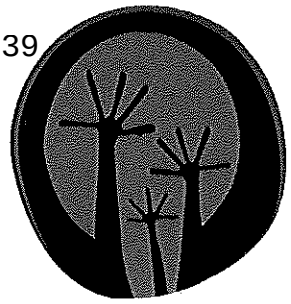
Submission No.139



NATIONAL CONGRESS
OF AUSTRALIA'S FIRST PEOPLES

P: 02 8070 3100 F: 02 8070 3125
FreeCall 1800 266 477

Level 2 27 Cope St. Redfern
NSW 2016 AUSTRALIA

PO BOX 1446 Strawberry Hills
NSW 2012 AUSTRALIA

ABN 47 143 207 587

14 December 2011

Committee Secretary
House of Representatives Standing Committee on
Aboriginal and Torres Strait Islander Affairs
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

And via email: atsia.reps@aph.gov.au

Dear Secretary

Thank you for accepting this late statement from the National Congress of Australia's First Peoples on the Inquiry into Language Learning in Indigenous Communities.

Congress has been established to be a national leader and advocate for Aboriginal and Torres Strait Islander peoples.

Congress supports this inquiry recognising the unique status and diversity of Australia's First Peoples, and the Government's obligations to support their cultural rights under the UN Declaration on the Rights of Indigenous Peoples. We also note the 2009 National Indigenous Languages Policy.

Our recommendations in relation to improving the Government's role in language learning for Aboriginal and Torres Strait Islander people are attached. Recognising the importance of language in Aboriginal and Torres Strait Islander cultures, we include the Congress statement to the Minister for the Arts' proposal to develop a National Cultural Policy, for your information.

Congress would welcome future opportunities to work with the Australian Government on matters of culture, as an area of fundamental importance to the wellbeing of Aboriginal and Torres Strait Islander peoples.

Please contact Ms Leigh McLaughlin, Director of Policy on [redacted] or at [redacted] if you require any further information on these matters.

Sincerely

[redacted]

Mr Lindon Coombes
CEO

STATEMENT TO

THE AUSTRALIAN GOVERNMENT

ON THE

INQUIRY INTO LANGUAGE LEARNING IN INDIGENOUS COMMUNITIES CONDUCTED BY THE ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS COMMITTEE

NATIONAL CONGRESS
OF AUSTRALIAS FIRST PEOPLES

December 2011

Statement to the Australian Government on the Inquiry Into Language Learning In Indigenous Communities

1 Introduction

The National Congress of Australia's First People (Congress) welcomes the Australian Government's inquiry conducted by The Aboriginal and Torres Strait Islander Affairs Committee. We welcome the opportunity to contribute to the inquiry, in an attempt to improve the lives, and in turn outcomes for Aboriginal and Torres Strait Islander peoples.

Congress has been established to be a national leader and advocate for Aboriginal and Torres Strait Islander peoples. We advocate for the recognition of the rights of Australia's First Peoples, and for securing their economic, social, cultural, political and environmental development.

Language is central to Aboriginal and Torres Strait Islander cultures. The two are intertwined. Language describes cultural attachment to place, cultural heritage items, and puts meaning within the many cultural activities that people do. Furthermore, language plays a fundamental part in binding communities together as a culture, and individuals to each other in a society. Wesley Enoch, Director of the Queensland Theatre Company and a Nunukul Nuggi man, has said that "the loss of language is the loss of the ability to describe the landscape… and your place in it." [1]

Educational research over a number of decades has intrinsically linked language maintenance to the well-being of Aboriginal and Torres Strait Islander peoples, and to better outcomes for individuals and communities. Language learning, maintenance and revival have been identified by Congress members as highly important, requiring urgent attention: "Culture is what makes us who we are, this has to be kept, maintained, rekindled, revived." [2] Another member of Congress, a WambaWamba man, stated "Language underpins everything we do as Aboriginal people. They [the Government] need to recognise traditional knowledge as something very special to Australia." [3]

From an internationally recognised linguistic perspective, the critically endangered status of Aboriginal and Torres Strait Islander languages in Australia is at crisis levels. Prior to 1788, over 250 Aboriginal languages were spoken. At the time of the 2005 survey, only about 145 Aboriginal languages were still spoken, with most of these languages (110) categorised as "severely and critically endangered" by global linguistic experts. Only 20 Aboriginal languages are considered to be "strong." [4] Whilst the extreme level of language decay has been devastating to First Peoples, all is not lost. Maintenance of the remaining active First Peoples languages and revitalisation of those languages which are 'sleeping' is very much possible, with the right will, approach and resources given to them.

Congress reiterates the concerns expressed by expert educational institutions such as the Koori Centre at the University of Sydney, the Research Centre for Languages and Cultures, University of South Australia, Jumbunna Indigenous House of Learning, University of Technology Sydney, the Australian Society for Indigenous Languages, and the Board of Studies NSW, highlighting the

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[1] Wesley Enoch, *pers.comm.*, November 2011.
[2] National Congress of Australia's First Peoples, *National Congress Report 2011 – Building Our Foundations*, p. 50.
[3] Steven Ross, Yarkuwa Indigenous Knowledge Centre, *pers.comm.*, November 2011.
[4] AIATSIS and FATSIL, *National Indigenous Languages Survey Report, 2005.*

significant body of evidence over a number of decades which supports the need for urgent action in Aboriginal and Torres Strait Islander language learning, maintenance and revival.

Census results also show a decline in Aboriginal language use in communities in the current decade. In 2001, 11.1% of Aboriginal and Torres Strait Islander people over the age of five spoke a First Peoples language, whilst in the 2006 census this figure was only 9.2 percent. [5] Congress expects to see a continued trend of decline in the 2011 Census figures, due to a range of factors, including the lack of sufficient funding for Aboriginal language programs, lack of coordination and strategic approach to language maintenance and revival efforts, and the cessation of bilingual education in the Northern Territory in 2010, where the largest number of speakers of 'strong' languages reside. This trend of decline is of deep concern to Congress.

Tony Abbott, Leader of the Opposition, has been quoted by Noel Pearson, Director of the Cape York Institute as saying "Because it is unique to our country, support for Aboriginal culture is a responsibility of Australian government." [6] Mr Pearson himself has said that if Aboriginal and Torres Strait Islander languages and cultures are not saved, the "wellbeing of our people will never be achieved," and that it is "a question of national wellbeing and national identity." [7]

The adoption of First Peoples languages by the wider Australian community as everyday vernacular, including place and street names, national park and conservation reserve names and interpretive signage, plant and animal names and description of natural phenomena and landmarks is an important part of Australian society, reconciliation, awareness raising, as well as being a matter of deep pride for First Peoples. Aboriginal and Torres Strait Islander languages identify things about this country in a way that is uniquely Australian.

Congress acknowledges that the Government has made efforts in this area over the years. These efforts include the Indigenous Languages Support (ILS) funding (previously called the MILR program) for language programs since 1993, the *State of Indigenous Languages Report* in 2001 , the *National Indigenous Languages Survey* in 2005 (2005 NILS), *Indigenous Languages – A National Approach in 2009 (the National Indigenous Languages Policy)*, the *Social Justice Report 2009 (Chapter 3: The perilous state of Indigenous languages in Australia),* and *The National Aboriginal and Torres Strait Islander Education Policy and Action Plan 2010-14*. Congress asserts that these surveys, reports and now National Policy, while helpful in identifying issues, have not made significant headway in improving the situation, and that action is urgently required to develop a new and strategic approach to implementation of Aboriginal and Torres Strait Islander language maintenance and revival efforts.

Congress commends the Committee for this inquiry into what has and has not worked, and its efforts to identify what needs to be done to slow language loss in Aboriginal and Torres Strait Islander communities, and improve language learning.

Congress asserts that there needs to be immediate action by the Government in order to slow the rapid loss of Australian Aboriginal and Torres Strait Islander languages; as uniquely Australian heritage of importance to all Australians, as well as being intrinsically linked with the well-being of

[5] Obata, K. and Lee, J., "Languages of Aboriginal and Torres Strait Islander Peoples – An uniquely Australian heritage" in Australian Bureau of Statistics, Year Book Australia 2009-2010.
[6] Noel Pearson, *Right crucial to Aboriginal reforms, The Australian*, September 2010.
[7] Noel Pearson, *Griffith Lecture*, Brisbane, October 25, 2011.

Aboriginal and Torres Strait Islander peoples and their sense of strong identity, self-esteem and belonging[8].

Congress notes that the Government is currently developing a National Cultural Policy, to which Congress will be submitting a separate submission.

Congress also reminds the Committee of the Government's recognition of Aboriginal and Torres Strait Islander people's language and culture as part of the Constitutional Reform process currently underway, which highlights the national significance of such an acknowledgement.

Congress notes the important work of individuals and language groups in States and Territories, who have volunteered over a long term and often in a voluntary capacity or with limited financial support to promote and maintain the importance of Aboriginal and Torres Strait Islander languages.

2. Congress comment

2.1 Government obligations to First Peoples' language rights.

Aboriginal and Torres Strait Islander peoples have the right to maintain their cultures under the *United Nations Declaration on the Rights of Indigenous Peoples* (The Declaration), to which Australia is a signatory.

The United Nations Expert Mechanism on the Rights of Indigenous Peoples has stated that:

> "A major factor contributing to the disadvantaged position of indigenous peoples is the lack of quality education - which may be defined as education that is well resourced, culturally sensitive, respectful of heritage and that takes into account history, cultural security and integrity, encompasses human rights, community and individual development, and is designed in a way that is implementable." [9]

Congress notes the relevant articles of the Declaration which outline Australia's existing human rights obligations to Australia's First Peoples with respect to language.

Article 11

1. Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.
2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken

[8] Nola Purdie, Pat Dudgeon and Roz Walker (Editors), *Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice,* 2010.

[9] United Nations General Assembly, *Study On Lessons Learned And Challenges To Achieve The Implementation Of The Right Of Indigenous Peoples To Education*, August 2009.

without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.
2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.
2. States shall take effective measures to ensure this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.
2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.
3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

These key responsibilities of the Australian Government require a long term approach, as well as multi party support, as this is an issue of local and national importance that requires commitment and engagement by all political leaders, state and federal.

Congress recommends that a long term strategic plan to implement its responsibilities for First Peoples languages under the Declaration be undertaken as a matter of priority by the Government, which includes language maintenance and revival.

2.2 One size does not fit all - each community is different.

There are widely different experiences and desires within Aboriginal and Torres Strait Islander communities regarding the techniques needed to either maintain or revive their language, depending on the level of language loss that the community has suffered, and whether English is their first, or subsequent language. The psychological, cultural, social and educational benefits of bilingual education and use of English as a Second Language (ESL)

teaching methodologies for those communities for whom English is not their first language is well documented. For other communities where English is the main language, the successful use of revival techniques, ESL methodologies, preschool and adult learning are well evidenced by international organisations referenced in this document, as well as in all of the submissions made to this inquiry by the educational fraternity.

A myriad of options have been recommended to the Government through previous reports and reviews, are supported by evidence, and enable a range of solutions suitable for various communities to be enacted by State and Territory Governments and by communities, suitable to each community's needs. Whether that community is an English speaking community needing to revive and re-learn their traditional language, or community who needs to maintain language use while learning English as a second language, there is a corresponding model which has been evidenced as being successful. Widely different experiences of communities require widely different solutions to be developed in consultation with each community.

The Aboriginal and Torres Strait Islander people and organisations with whom Congress has consulted have said that flexibility by Government, as well as community involvement in program development and delivery, are the keys to success. Evidence from the USA has shown that :

> "When Native nations make their own decisions about what development approaches to take, they consistently out-perform external decision makers on matters as diverse as governmental form, natural resource management, economic development, health care, and social service provision." [10]

Congress recommends that policies and programs must be targeted to local community needs in active partnership and engagement with that community.

Congress recommends reinstating bilingual education in the Northern in those communities that have requested it. Experts have provided evidence which documents that learning an Aboriginal language enhances Aboriginal children's English language learning.

2.3 Better planning and service delivery is needed.

It is of great concern to Congress that there have been multiple reviews and recommendations made in relation to the maintenance, revitalisation and revival of Aboriginal and Torres Strait Islander languages, and to the benefits of teaching First Peoples languages and English together, and yet a strategic approach to language education, maintenance and revival has not been undertaken. Congress recommends mapping and developing an implementation plan for recommendations from these previous reports as a priority.

In attempting to evaluate the potential and actual impact of language policy on endangered languages worldwide, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) journal cites "weak linkages between policy and planning which render

[10] The Harvard Project on American Indian Economic Development, at http://hpaied.org/about-hpaied/overview

ineffective most policies aimed at assisting endangered languages" [11] as a need for better planning regimes.

There are good examples from many countries where indigenous language policy has involved shared decision-making and mutually agreed goal-setting to meet the needs of indigenous students. From these examples, the UN urged "States to adopt a policy framework for quality education for indigenous peoples, set clear goals, targets and priorities, and develop indicators to measure achievements, together with indigenous peoples." [12] Outcomes could include "greater participation, improved literacy skills, lower truancy rates and the gaining of meaningful qualifications." [13]

As Congress member and Noongar man Lester Coyne has stated "programs need to be run not just better, but with better outcomes for Aboriginal and Torres Strait Islander people." [14]

2.4 Establish a National Interpreter Service to improve interpreting and translation access for Australian First Nations peoples

The COAG National Partnership Agreement on Remote Service Delivery states that it is the responsibility of the Government to introduce "a national framework, working with the States and the Northern Territory, for the effective supply and use of Indigenous language interpreters and translators (both technical and non-technical), including protocols for the use of interpreters and translators" (national framework). [15] This measure is important for not only the delivery of basic human services due to all citizens, but also is particularly necessary in the area of courts and justice, where the lack of provision of these services may affect the ability of Aboriginal and Torres Strait Islander people to obtain a fair trial, and may lead to increased rates of incarceration.

Congress members have stated that recent attempts to improve translating and interpretation services need to incorporate community approaches to provision of services.

Congress recommends that a National Interpreter Service is established to ensure Aboriginal and Torres Strait Islanders are allowed the same access to services as other Australians as a matter of urgency.

2.5 Establish a new national Aboriginal and Torres Strait Islander Languages body.

Congress supports the recommendation from the 2005 NILS report for the establishment of a National Indigenous Languages Centre. The *2009 National Indigenous Languages Policy* has committed to undertake a feasibility study for the centre. Congress believes its

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[11] Suzanne Romaine, Oxford University, *The Impact of Language Policy on Endangered Languages*, International Journal on Multicultural Societies. Vol 4. No 2., UNESCO, 2002.

[12] United Nations Expert Mechanism on the Rights of Indigenous Peoples, *Study On Lessons Learned And Challenges To Achieve The Implementation Of The Right Of Indigenous Peoples To Education*, p.14.

[13] Submission to the UN by the Government of New Zealand. In previous reference, from *Ka Hikitia - managing for success: the Māori education strategy 2008-2012.*

[14] Lester Coyne is a Noongar man, a Congress member, and ex-chairperson of the Federation of Aboriginal and Torres Strait Islander Languages and Culture (FATSILC), the national Aboriginal languages peak body.

[15] COAG *National Partnership Agreement on Remote Service Delivery* (2008) [19 (g).

establishment is important as a coordinating body. Further discussion of the model is necessary, which incorporates advice from Aboriginal and Torres Strait Islander people with expertise in the field about its role. It is critical to build on what has already been achieved and draw on the skill and experience of these already involved in Indigenous policy, program and service delivery.

The national body could:

- oversee the implementation of the many recommendations from the multiple reviews, reports and implement the actions from the *National Indigenous Languages Policy*
- coordinate language funding
- develop training and performance standards
- conduct mapping, strategic planning and prioritisation of a suite of maintenance and revival activities nationally, in conjunction with State education departments, State or Regional Aboriginal language centres, and community groups and
- support local approaches by communities and Traditional Owners as part of its core work.

Congress recommends:

a) an implementation plan for the National Indigenous Languages Policy is developed as a priority, and
b) the formation of a national body to carry out this implementation as a key milestone in any plan.

2.6 Overhaul of funding regime is required

The 2010 Strategic Review of Indigenous Expenditure highlights the need for major improvements to funding for Aboriginal and Torres Strait Islander initiatives.

Congress recommends a review of the Government's language funding regime. Issues of concern raised by Congress members include:

a) The current funding approach of the Indigenous Languages Support program is inconsistent, inadequately informed, non-strategic and short-term. Congress asserts that there should be a strategic approach to funding allocation, with different priorities funded each year, as part of a long term and wholistic strategy. Congress members advised that they had no confidence that the current ILS funding decisions are based on good intelligence, evidence of success, or a strategic methodology.
b) A gap exists in the participation of Aboriginal and Torres Strait Islander involvement in funding decisions. Many Aboriginal and Torres Strait Islander people have been working tirelessly to revive and maintain their languages as a key part of their culture for many years or decades, and have a wealth of expertise about what works and what doesn't. Their knowledge is invaluable to assist in good decisions being made regarding funding. A National First Peoples languages centre could assist with this role.
c) There is an urgent need for additional funding for Aboriginal language programs to sustain a roll-out of trials across the country of well-evidenced language revival models. The funding commitment of $9.6m in 2011/12 is not sufficient to implement a strategic approach countrywide, or even region-wide. Also, no rationale has been provided for decisions in relation to funding amounts by the program.

d) The funding methodology needs to be improved. The bureaucracy of language funding is large, and staff turnover is profound, which has lead to poorly informed decisions in regard to funding, and lack of good historical data.

e) Allocation of funding and the provision of services and programs needs to be better coordinated to respond to the needs of each community (e.g. implementation flexibility).

f) Priority mapping is needed to ensure equitable distribution of funds to traditional owner groups, people living in urban areas, as well as linguists and universities.

g) Need to earmark a larger portion of ILS funding towards community language programs. There was concern that up to 50% of ILS budget in recent years had gone into linguistic work and staffing, not program delivery.

h) Similarly, there was concern that funding is going to non-Aboriginal and Torres Strait Islander run programs. [16] Our members recognise that good relationships with non-Aboriginal or Torres Strait Islander researchers and others are essential, but believe that program funding must be dependent on Aboriginal and Torres Strait Islander organisations being in control of programs, at the least as auspicing bodies. While other groups may be able to access alternative funding sources, First Peoples groups rely on government funding through the ILS program.

i) Communities believe an overall national strategy for language maintenance and revival based on international standards and research is required.

j) Concern that reporting regimes for language funding received were excessive. For the small amount of funding received, the reporting is onerous on community programs and requires streamlining.

k) There was a call for a portion of the ILS budget to be used for pooled funding for resource acquisition for communities, as many communities and language groups must purchase dictionaries and grammars from non-Aboriginal linguists and book publishers.

l) Competitive funding rounds are difficult for community run organisations. Previous recommendations in Government reports suggest State and regional Aboriginal and Torres Strait Islander Language Centres have a role in assisting language groups in their region with applications.

m) Tri-annual funding was seen as necessary to allow for longevity and strategic planning and for the success of programs.

n) Language organisations should be granted deductible gift recipient status, to allow for philanthropic donations and income tax deductible gifts. Aboriginal and Torres Strait Islander languages are embedded in culture and the two should not be separated, and therefore language organisations should be eligible for placement on the Register of Cultural Organisations administered by the Office for the Arts, the Department of the Prime Minister and Cabinet.

3. Conclusion and List of Recommendations

3.1 Congress reminds the inquiry that Aboriginal and Torres Strait Islander languages are intrinsically linked with the practice of cultures, cannot be separated, and must be maintained as part of the ongoing Aboriginal and Torres Strait Islander, and the greater Australian, cultural economy.

[16] Examples provided were that of the Catholic Church, Shire Councils, and State or Territory Government Natural Resource and other departments receiving funding in a number of recent ILS funding rounds.

3.2 Congress asserts that the Federal Government must act immediately to stop the disappearance of Aboriginal and Torres Strait Islander languages, as a matter of national significance to all Australians, and as an intrinsic part of Aboriginal people's human rights, identity, self-esteem, and well-being.

3.3 Congress concludes that the delay in implementing on-the-ground solutions for communities to allow them to, in whatever manner is best suits that community, implement a range of language maintenance, revival and revitalisation activities, is unacceptable, and requires urgent action.

3.4 Congress asserts that policy development and implementation must be responsive to local community needs and incorporate flexible processes for engagement with communities. Government now has the opportunity to devise a positive new partnership with Aboriginal leaders and communities in which tangible solutions are identified by the people themselves, and practical steps are taken to achieve them. Government flexibility is key to this approach.

3.5 Congress reminds the Government of its responsibility to ensure policies and programs are fully consistent with the standards affirmed in The Declaration.

Congress makes the following specific recommendations:

3.6 Congress recommends that policies and programs must be targeted to local community needs in active partnership and engagement with that community.

3.7 Congress recommends reinstating bilingual education in the Northern Territory in those communities that have requested it. Experts have provided evidence which documents that learning an Aboriginal language enhances Aboriginal children's English language learning.

3.8 Congress recommends mapping and development of an implementation plan for recommendations from previous reports and for the 2009 National Indigenous Languages Policy as a priority.

3.9 Congress recommends that a National Interpreter Service is established to ensure Aboriginal and Torres Strait Islanders are allowed the same access to services as other Australians as a matter of urgency.

3.10 Congress supports the recommendation from the 2005 NILS report for the establishment of a National Indigenous Languages Centre.

3.11 Congress recommends a review of the Government's language funding regime.

4. Acknowledgements

To prepare this statement, Congress has established a reference group of key member organisations involved in language maintenance, teaching and revival. These include Yarkuwa Indigenous Knowledge Centre, and the Federation of Aboriginal and Torres Strait Islander Languages and Culture and individual members involved in language work. Congress acknowledges and supports

their assistance, as well as the submissions and voices of the many Aboriginal and Torres Strait Islander organisations and peoples who have already submitted their views to the inquiry.

Congress has analysed and acknowledges the work that has gone into previous reviews, reports and submissions on Aboriginal and Torres Strait Islander languages since 2001.

Congress also as acknowledges the excellent submissions to the inquiry from a number of strategic partners, including Australians for Native Title and Reconciliation, The Australian Human Rights Commission, and the Koori Centre at University of Sydney.

Congress acknowledges the shared message in many of these submissions, that all actions and measures to address Aboriginal disadvantage must be consistent with international obligations under United Nations instruments to which it is a signatory.

Statement to the Australian Government

on the proposal for a National Cultural Policy

NATIONAL CONGRESS
OF AUSTRALIAS FIRST PEOPLES

December 2011

Statement by
The National Congress of Australia's First Peoples
on the proposal for a national cultural policy

1. Introduction

The National Congress of Australia's First Peoples welcomes the opportunity to comment on the Australian Government's proposal to develop a national cultural policy.

Congress has been established to be a national leader and advocate for Aboriginal and Torres Strait Islander peoples. We advocate for the recognition of the rights of Australia's First Peoples, and for securing their economic, social, cultural, political and environmental future.

Congress supports the development of a national cultural policy.

Congress agrees with the premise set out in the discussion paper that the arts and other forms of culture are fundamental to Australia's identity as a society and a nation, and increasingly important to our economy. Nowhere is this truer than for Aboriginal and Torres Strait Islander people. Culture in all its many forms is central to the identity and wellbeing of Aboriginal and Torres Strait Islander peoples at an individual, family, community and national level. It is also important as a source of independently-derived income for communities and individuals.

The history of dispossession of Aboriginal and Torres Strait Islander peoples includes a long struggle to retain language, ceremony, traditional knowledge, and the land which underpins culture. Much has been lost, but much has remained to fuel the modern explosion of cultural reconnection and revitalisation which includes expression of traditional and contemporary-style Aboriginal and Torres Strait Islander visual and performing arts.

That reconnection with culture and the telling of our stories and histories – whether at a family and community level or through expression in national and international showcases such as the Deadly Awards and the Sydney 2000 Olympics – make a significant contribution to strengthening pride, identity, positive promotion and unity of Aboriginal and Torres Strait Islander peoples. The national expression of Aboriginal and Torres Strait Islander cultures builds reconciliation with other Australians and is the source of a uniquely Australian identity.

2. Government obligations to cultural rights

Congress asserts that a national cultural policy must reflect the rights recognised by the UN Declaration on the Rights of Indigenous Peoples, among these the right of Aboriginal and Torres Strait Islander peoples to:

- Maintain, protect, control and develop the past, present and future manifestations of their cultures, such as designs, ceremonies, technologies and visual and performing arts and literature (*Article 11*), and their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions (*Article 31*).
- Practise, revitalise and transmit their cultural traditions, histories, languages, oral traditions, philosophies, writing systems and literatures (*Article 13*).

Congress also maintains that a national cultural policy must enact the obligations of the Australian Government set out in the UN Declaration to provide effective measures to recognise and protect the exercise of these rights, and redress cultural, intellectual, religious and spiritual property taken without free, prior and informed consent or in violation of their laws, traditions and customs. These measures are required to be developed and implemented in conjunction with Aboriginal and Torres Strait Islander peoples.

The recommendations that follow are based on the importance of these rights and obligations. Congress is of the view that a national cultural policy that fully implements these rights and obligations will enable Aboriginal and Torres Strait Islander peoples to take their rightful place in the nation's cultural life.

3. Congress comment

3.1 Acknowledge the unique status, diversity and continuity of Aboriginal and Torres Strait Islander cultures

Congress is of the view that the unique status of Aboriginal and Torres Strait Islander peoples as the First Peoples of Australia must be recognised both through the development of a separate Aboriginal and Torres Strait Islander peoples national cultural policy, and by being given specific focus in a national cultural policy. The modern exercise of Aboriginal and Torres Strait Islander cultures should not be regarded simply as another facet of multicultural Australia. The strong bonds between land, language, ceremony, belief and knowledge systems makes Aboriginal and Torres Strait Islander culture unique in Australia, and the oldest continuing cultures in the world. This cannot be replicated through recent experience.

Aboriginal and Torres Strait Islander cultures are continuous and evolving. A national cultural policy should not treat 'traditional' and 'modern' forms of Aboriginal and Torres Strait Islander cultures as distinct and separable.

The diversity of Aboriginal and Torres Strait Islander cultures must also be recognised in a national cultural policy. As a case in point, Goal 1 of the discussion paper should refer to 'Indigenous *cultures*' in the plural.

Congress recommends the establishment of a new goal in the national cultural policy. This goal should express recognition of and support for the unique status of Aboriginal and Torres Strait Islander peoples and their diverse and continuous cultures, and the contemporary expression of those cultures in many interrelated forms.

A national cultural policy should give explicit support to the value of Welcome to Country ceremonies and Acknowledgements as an important cultural recognition of the unique status of Aboriginal and Torres Strait Islander peoples. Welcome to Country ceremonies are also an important form of economic support for many elders, and provides recognition of their status as cultural leaders in their communities.

3.2 Recognise that culture is essential to wellbeing

Congress is of the view that a national cultural policy must recognise that access to and exercise of cultures contributes to the wellbeing of Aboriginal and Torres Strait Islander individuals and communities. It forms bonds between people, builds a sense of individual and community identity, and contributes to resilience – the capacity to withstand and recover from setbacks.

Among disadvantaged Aboriginal and Torres Strait Islander communities, improving wellbeing is essential to closing gaps in disadvantage. It underpins the capacity to self-govern, and to take greatest advantage of opportunities and services. While gaps in health, education, housing, employment and justice continue to divide Aboriginal and Torres Strait Islander peoples from other Australians, it is support of cultures which provides a foundation for positive change. This principle should be given greater recognition in Government's Closing the Gap policies, and through a holistic approach to implementation of cultural policy for Aboriginal and Torres Strait Islander peoples which involves many agencies and service providers.

3.3 Ownership and control of Aboriginal and Torres Strait Islander cultures must rest with communities

A national cultural policy must acknowledge the premise of the UN Declaration that Aboriginal and Torres Strait Islander peoples have the right of ownership and control of their own cultures in all their forms, and that governments have obligations to take measures to protect the exercise of those rights.

Implementation of this principle in a national cultural policy should include these strategies:

Fund Aboriginal and Torres Strait Islander national cultural institutions

A national cultural policy must include the strategy of supporting existing and establishing new national institutions for Aboriginal and Torres Strait Islander cultures.

The Australian Institute of Aboriginal and Torres Strait Islander Studies has a vitally important role in the preservation, protection, provision of access to, and research on, cultural materials and knowledge. Its status as a national cultural institution must be recognised, and its work must continue to be supported and strengthened through a national cultural policy.

Aboriginal and Torres Strait Islander visual and performing art attract international and national interest which is disproportionate to the government support they receive, but this is not acknowledged by the existence of national institutions for Aboriginal and Torres Strait Islander arts. Funding national mainstream bodies for Aboriginal and Torres Strait Islander visual arts has not vested true control with Aboriginal and Torres Strait Islander peoples, nor led to the vitality, vision and world-class innovation that is evident in Aboriginal and Torres Strait Islander-controlled and led organisations such as Bangarra Dance Theatre.

Mainstream national art institutions have considerable inertia to overcome, and lack a critical mass of Aboriginal and Torres Strait Islander voices. As Hetti Perkins, one of the nation's most respected curators of Aboriginal art, said:

> *"Generally speaking, mainstreaming Aboriginal and Torres Strait Islander arts has failed us…While I value our presence in major institutions across this country, there is a vital piece of the puzzle that's missing, and that is our own properly resourced national cultural centre – a flagship cultural centre that can lead by example, that can promote the professional development of our people right across the arts industry. A place that can be a centre of research, of excellence, of scholarship and of consultation, and that can be part of the fabric of cultural centres and keeping places that exist in communities right across our country. It can be an advocate for our people and for our culture, and most importantly it can showcase the incredible diversity and talent of the work of our artists who are the inheritors of the world's oldest continuous cultural tradition."*[1]

[1] Presentation at the 28th Telstra National Aboriginal and Torres Strait Islander Art Awards in Darwin, Northern Territory Australia, 2011.

Furthermore, the distinctions between the various forms of arts and culture made in mainstream paradigms are alien to Aboriginal and Torres Strait Islander cultures. Language, dance, song, visual arts, ceremony, knowledge systems – are a continuum of cultural practice which has not been possible to capture in mainstream institutions devoted to one branch of the arts, or in mainstream public funding models.

National Aboriginal and Torres Strait Islander arts bodies must be run on lines which may differ from the model of existing mainstream national bodies:

- They must have the freedom to not only showcase Aboriginal and Torres Strait Islander talent and stories, but act as high-profile advocates and entrepreneurs for Aboriginal and Torres Strait arts.
- They must have the flexibility to remain dynamically connected to communities and forge new connections. Having a broad view of their relationship with communities, not fixed in a 'performer and audience' viewpoint, opens opportunities for community development and participation, exchange of skills and reinforcement of cultures.
- Their establishment need not necessarily involve large investment in infrastructure in a single location, and their touring need not be confined to places with large infrastructure. Groups such as Bangarra Dance Theatre and the National Theatre of Scotland demonstrate that a performing arts body can successfully operate to an internationally-acclaimed standard while working within communities, growing and shrinking with need.
- They must have the opportunity for cross-disciplinary partnerships outside the arts – with areas such as education, health and community development – to maximise the many benefits that arise from a holistic approach to community investment.

Better fund and support national Aboriginal and Torres Strait Islander celebrations

There are a number of national Aboriginal and Torres Strait Islander cultural celebrations which are held in communities all across Australia, most notably NAIDOC Week (running annually in the first full week of July), the Survival Concerts (on 26 January each year) and Reconciliation Week (usually in May, to coincide with National Sorry Day on 26 May each year).

Aboriginal and Torres Strait Islander festivals and celebrations are an important vehicle for community expression, unification of Aboriginal and Torres Strait Islander peoples, positive promotion of Aboriginal and Torres Strait Islander peoples, cultures and communities, and reconciliation and sharing with the broader community.

National celebrations are particularly important in building unity amongst Aboriginal and Torres Strait Islander peoples because they are inclusive of all Aboriginal and Torres Strait Islander peoples, even displaced peoples who for one reason or another are not living on their homelands. These celebrations also promote cultural self-determination because the celebrations are not constrained in their form, style or content, and are thereby open to local Aboriginal and Torres Strait Islander peoples to celebrate as they wish.

Providing support to national Aboriginal and Torres Strait Islander celebrations also provides a vehicle for direct contribution to economic and employment benefits for Aboriginal and Torres Strait Islander peoples in the performing arts industry including Elders, singers, dancers, artists, event managers, graphic designers and media professionals.

Congress has been informed by Members that NAIDOC Week and Survival Celebrations are particularly underfunded and under-supported by Government and this makes the celebrations difficult to manage and promote to the wider community. A specific example is NAIDOC Week

funding, which is currently excluded from a number of Federal Arts Grants noted in the discussion paper due to being funded separately (and inadequately), by the Department of Families, Housing, Community Services and Indigenous Affairs.

Congress recommends that national Aboriginal and Torres Strait Islander celebrations be urgently considered by the Federal Government for increased funding, coordination and support.

As Glenda Kickett, Chairperson of NAIDOC Perth said:

> *"NAIDOC Perth is focused on the celebration of Aboriginal and Torres Strait Islander peoples, cultures and communities in Perth. Our organisation commenced in 2007, following the disbandment of ATSIC, which used to coordinate NAIDOC. The growth of our organisation and demand for our services since then is an indication of the thirst for well-coordinated, promoted and inclusive Aboriginal and Torres Strait Islander celebrations which are community driven. However, we lack funding and support and rely heavily on the goodwill of volunteers. We need greater Government support, involvement and recognition to be able to keep up with the growing demand."*
>
> - Glenda Kickett, Chairperson, NAIDOC Perth (Inc.) and Delegate to the National Congress.

Congress also recommends that thought and consultation be given to a national public holiday which celebrates Aboriginal and Torres Strait Islander peoples, cultures and communities.

Support local arts centres

Arts and crafts are an essential component of the wellbeing of many Aboriginal and Torres Strait Islander communities, particularly remote and regional communities where employment opportunities are rare.

While the 110 or more Aboriginal and Torres Strait Islander arts centres vary widely in their function and quality of their infrastructure, they are almost all owned and operated by local communities, make a significant contribution to community wellbeing, and provide a safe place where peoples may practice and teach their culture to younger community members.

Congress recommends that the Government implement outstanding recommendations of the 2007 Senate report *Indigenous Art – Securing the Future* to boost support for Aboriginal and Torres Strait Islander art centres, including the recommendations to boost funding to the National Arts and Craft Industry Support program and complementary fund for infrastructure, and the recommendation to increase the skill base of art centre managers and prospective managers.

Support languages as a vital part of culture

Congress is of the view that Aboriginal and Torres Strait Islander languages need to be owned by communities and protected from extinction by their widespread use in communities. Languages should be taught in and by communities, and grow and adapt to modern life through that use.

A national cultural policy must acknowledge that languages are an important piece of Aboriginal and Torres Strait Islander cultures and identity, and should take into consideration outcomes of the recent inquiry into language learning in Aboriginal and Torres Strait Islander communities conducted by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Committee to which Congress has provided a submission.

Congress is of the view that Aboriginal and Torres Strait Islander languages are important in the long term as well as the short term.

"As the health, educational and economic gaps between Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians disappear, as they must, all that will distinguish Aboriginal and Torres Strait Islander peoples from other Australians is culture. It will be then that we will feel the loss of Indigenous languages most keenly."

-Wesley Enoch, Artistic Director, Queensland Theatre Company and member of the Ethics Council advisory body to Congress.

3.4 Aboriginal and Torres Strait Islander cultures must be better protected

The respect of Aboriginal and Torres Strait Islander cultures espoused by Government and organisations is not reflected in the protection of law.

The many State, Territory and Federal laws which regulate cultural heritage protection are frequently inconsistent, incomplete and provide inadequate protection in many circumstances. They require significant reform, preferably through a Federally-led process agreed to by all jurisdictions.

Australia's copyright laws are at odds with Aboriginal and Torres Strait Islander world views based on collective ownership, orally-transmitted knowledge, and the perpetual nature of culture. Copyright and intellectual property laws focus on material forms, protect expression rather than underlying content, grant moral rights only to individuals and for a limited term, and give no special protection to sacred knowledge[2].

Congress supports the establishment of a national Aboriginal and Torres Strait Islander cultural authority that would protect cultural and intellectual property rights and set standards for appropriate use, including royalties, cultural integrity and attribution. Such a body could promote the negotiated use of tradition-based creativity and innovation, including commercialisation; ensure that prior consent of traditional owners is obtained; and ensure the sharing of benefits derived from the use of Aboriginal and Torres Strait Islander cultural and intellectual property.[3]

3.5 New technologies must benefit Aboriginal and Torres Strait Islander cultures

Congress welcomes the attention to emerging technologies in goal 2 of the discussion paper on a national cultural policy. Emerging communication technologies have enormous power to enable Aboriginal and Torres Strait Islander communities and individuals to transmit, teach and share cultural traditions, and to build social cohesion and connections across long distances.

Lack of access to culture threatens the continuity of culture.

-Wesley Enoch, Artistic Director, Queensland Theatre Company and member of the Ethics Council advisory body to Congress.

An effective National Broadband Network would have numerous benefits for Aboriginal and Torres Strait Islander peoples:

- **Join communities** in cultural experiences such as mutual engagement in ceremonies;
- **Bring individuals back to their communities** by enabling people living in distant locations to observe, learn and participate in the traditional and modern ceremonies of their Country;
- **Grow the number of Aboriginal and Torres Strait Islander language speakers** through the transmission, teaching and sharing of languages;

[2] Janke, Terri. *Writing up Indigenous research: authorship, copyright and Indigenous knowledge systems*. Terri Janke and Company Pty Ltd. August 2009.
[3] Janke, Terri. *Beyond Guarding Ground: A vision for a National Indigenous Cultural Authority*. Terri Janke and Company Pty Ltd. 2009.

- **Reduce recidivism** by connecting detainees in prisons and juvenile detention centres to their cultural traditions;
- **Reduce the cost of access** to culture in remote and regional communities;
- **Open new markets** for arts, crafts and performance.

However, Congress is concerned that the application of emerging technologies in ways that are not inclusive of all communities, in particular those which are disadvantaged by poverty and remoteness, will further accentuate the gaps between Aboriginal and Torres Strait Islander peoples and other Australians.

Congress recommends that, in order to enable more people to participate in arts and culture, connection of remote Aboriginal and Torres Strait Islander communities must be prioritised in the roll-out of the National Broadband Network, and connection must provide a high-quality and reliable audio-visual experience.

4. Conclusion

Congress makes these recommendations:

1. A separate Aboriginal and Torres Strait Islander national cultural policy should be developed, in addition to greater recognition of Aboriginal and Torres Strait Islander peoples in a national cultural policy.
2. A national cultural policy must enact the responsibilities of Government to the cultural rights of Aboriginal and Torres Strait Islander peoples set out in the UN Declaration on the Rights of Indigenous Peoples.
3. A national cultural policy must express recognition of and support for the unique status of Aboriginal and Torres Strait Islander peoples as the First Peoples, and the diversity and continuity of their cultures from ancient times to the present. This should be a new goal, separate from those already identified by Government.
4. The Government should give explicit support to the value of Welcome to Country ceremonies and Acknowledgements as important cultural recognition of the unique status of Aboriginal and Torres Strait Islander peoples.
5. Government policy concerning Aboriginal and Torres Strait Islander peoples must recognise that access to and exercise of cultures contributes to wellbeing of individuals and communities, underpins the capacity for self-governance and resilience, and underpins the capacity to take greatest advantage of opportunities and services.
6. Support of cultures should be given greater recognition in Government's Closing the Gap policies, and through a holistic approach to implementation of cultural policy for Aboriginal and Torres Strait Islander peoples which involves many agencies and service providers.
7. Support should be larger for existing institutions and establishing new national institutions for Aboriginal and Torres Strait Islander cultures, in recognition that the UN Declaration states that Aboriginal and Torres Strait Islander peoples have the right of ownership and control of their own culture in all its forms. This should include The Australian Institute of Aboriginal and Torres Strait Islander Studies, and new national visual and performing arts bodies.
8. National festivals and celebrations such as NAIDOC week and Survival Day which promote positive messages about and to Aboriginal and Torres Strait Islander peoples should be better supported by Government.

9. The Government should implement outstanding recommendations of the 2007 Senate report *Indigenous Art – Securing the Future* to boost support for Aboriginal and Torres Strait Islander art centres, including the recommendations to boost funding to the National Arts and Craft Industry Support program and complementary fund for infrastructure, and the recommendation to increase the skill base of art centre managers and prospective managers.
10. The Government should acknowledge that languages are an important piece of Aboriginal and Torres Strait Islander cultures and identity, and should take into consideration outcomes of the recent inquiry into language learning in Aboriginal and Torres Strait Islander communities conducted by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs Committee in the development of cultural policy.
11. The many State, Territory and Federal laws which regulate cultural heritage protection should be reformed, preferably through a Federally-led process agreed to by all jurisdictions, to ensure they are consistent and adequate.
12. A national Aboriginal and Torres Strait Islander cultural authority that would protect cultural and intellectual property rights and set standards for appropriate use including royalties, cultural integrity and attribution, should be established.
13. Connection of remote Aboriginal and Torres Strait Islander communities must be prioritized in the roll-out of the National Broadband Network, and connection must provide a high-quality and reliable audio-visual experience.

Congress looks forward to future opportunities to work with the Australian Government on matters of culture, and to the benefits that a national cultural policy can bring to the economic, social, political and environmental interests of Australia's First Peoples.

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