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AUSTRALIA PARTNERS – LAW AND POLICING

Please see within my submission in response to your call for public submissions. This response has been prepared as a private sector/interested stakeholder in support of the Australian Government aim to further a peaceful, stable, and prosperous Indo-Pacific. **I focus only on the thematic area of Law and Policing.**

My views and contribution have been shaped through experience in both my previous employment for over 35 years with the Australian Federal Police (1984-2020) and as a current consultant in the Indo-Pacific Region.

My submission relates to countries who are members of the regional architecture of ASEAN and the Pacific Islands Forum (PIF) and it includes my observations to policy needs whilst working in, or in relation to, over 90% of these countries.

It is shaped by my belief that partnering to enhance skills and embed systems & processes relating to the law, policing & the related regulation or agreements with associated stakeholders is fundamental to a peaceful, stable, and prosperous Indo-Pacific and it must be contributed to as PIF Secretary General Henry Puna (2022) said "speaking to the realities of everyday people, (otherwise) all the policy & high-level language is unable to connect"[1]. It is for this reason **I have used the analogy of "Building Together"[2] as the basic strategic principle under pinning my response** as I believe Australia's development policy should clearly articulate that our core principle of development assistance is provided as part of working together with the recipient State.

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[1] Speech 22/2/2022 Secretary General Henry Puna at Ministerial Forum for co-operation in the Indo-Pacific, https://pina.com.fj/2022/02/25/the-big-picture-for-our-big-ocean-states-in-2022-thoughts-from-the-blue-pacific/
[2] Annexure A – "Building Together" analogy

DFAT DEVELOPMENT POLICY SUBMISSION
November 2022
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CONTENTS:

GLOSSARY

APG	Asia Pacific Group (on money laundering)
ASEAN	Association of South East Asian Nations
DFAT	Department of Foreign Affairs and Trade
FATF	Financial Action Taskforce
GNI	Gross National Income
M&E	Monitoring and Evaluation
MOU	Memorandum of Understanding
ODA	Official Development Assistance
PIF	Pacific Island Forum
ToC	Theory of Change
UNCTAD	Part of the UN Secretariat, reporting to UN General Assembly and the Economic and Social Council and part of the UN Development Group.
WoAG	Whole of Australian Government

Executive Summary – Policy Direction Recommendations	
Knowledge Management	1) DFAT to maintain and supply baseline partnership information as part of Program designs to aid in clarity of purpose within overall architecture of programming, with open source data integral to holdings. 2) Underpin program decisions through capture of holistic knowledge management requirements. 3) Share best practice methodologies and lessons learnt in leadership and other forums with Partners.
Partnerships	4) Partnership program decisions to be underpinned by joint problem solving. 5) Look for opportunities for Donor co-ordination, "partnerships that recognise and support the collective strength"[3]. 6) Include program delivery across the continuum of all related elements. 7) Keep branding simple – "Australia Partners" – (then) Program name and delivery lead. 8) Mature communications to focus on the partnership relationship with the key stakeholder/s
Systems Integration	9) Fund international development deployment within Government Departments so capacity to deliver policy imperatives are matched and measured (for both ODA and non-ODA capacity building). 10) Expand Australian domestic agencies to have a remit that contributes directly to partner country capacity building. 11) Align and form up responses in a structure that meets the need requested. 12) Include blended models of funding for both ODA and non-ODA streams within each Program
Program for Impact and Priority	13) Be responsive. 14) Partner on future challenges for the region including regulatory or monitoring systems. 15) Program to build pathway out of crime or human rights abuse. 16) Include leadership, inclusion and human rights education as sub-themes in all programming. 17) Use knowledge and political economy analysis to determine priority and impact decisions.
Draw on all elements of our relationships to achieve our shared interests[4]	18) Negotiate recipient country MOU's prior to inception of program. 19) Monitor and Evaluate – taskforce or joint teams within multiple WoAG implemention (including across Department and Third party delivery -not just per program) 20) Use complementary programming with thematic programming (ie English language or mediation skills that have day to day impact in change and embedding systems). 21) Review deployment model options for delivery.
Build Trust and Influence	22) Enhance and encourage support of long standing existing structures if they meet Priority and Impact criteria (ie APG, Interpol etc). 23) Build a cohort of trusted Australian Advisors across groups of thematically related stakeholders per country/region with direction setting input into multi-departmental delivery groups.

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[3] Speech 22/2/2022 Secretary General Henry Puna at Ministerial Forum for co-operation in the Indo-Pacific, https://pina.com.fj/2022/02/25/the-big-picture-for-our-big-ocean-states-in-2022-thoughts-from-the-blue-pacific/
[4] Senator the Hon. Penny Wong, https://www.foreignminister.gov.au/minister/penny-wong/speech/speech-pacific-islands-forum-secretariat

Terms of Reference Questions

1) **What key trends or challenges will shape Australia's engagement in our region and globally over the next five to 10 years? What risks and opportunities does this present for Australia's development assistance?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Trend -Speed of Digital Transformation Challenge – international online activity dispute resolution; use of digital currencies, money laundering methodologies, data mining	Consumer need Stability of online trade and commerce Impact on regional economies Jurisdiction and ability to detect organised crime	Determining Australia's partnering fit. Other donors active ie UNCTAD[5] partnering with The China Silk Road Group in Indo-Pacific[6]	Partner on future challenges for the region including regulatory or monitoring systems.(14)
Limited development assistance in areas where there are human rights concerns - Minimal programming as potential to come into contact with Human rights abuses	Not maximising potential to build capacity in areas where there are crime risks that could impact on Australia	Education on options when Human rights abuses potentially present Providing assistance value adds as a starting point for improvement	Program to build pathway out of crime or human rights abuses.(15)

2) **What development capabilities will Australia need to respond to these challenges?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Need to ensure recipient partner **requests** to any Australian domestic agencies (or those funded by them to deliver) are collated (By DFAT) and built into programmatic considerations Some requests do not have a clear Commonwealth of Australia lead to formulate assistance (ie fisheries, prisons)	Requests are an indication of partner country needs and priorities Requests can be made to one department when it is the remit of another body or number of bodies to deliver – we need to capture and consider all requests	Improve Australian domestic agencies performance measure re: international outcomes so resources can be made available Solutions should include potential contributors within our domestic structure – ie Australian States, /private enterprise, Australia Assists etc Oversight of contributors to a program could go to a lead delivery agency then to DFAT	Expand Australian domestic agencies to have a remit that contributes directly to partner country capacity building(10) Be responsive.(13) Align and form up responses in a structure that meets the need requested.(11)
Suppliers to development aid programming takes several forms	Inconsistencies exist in both private and public deployments	Needs review - Some feedback in Australia Assist mid term evaluation[7]	Review deployment model options for delivery(21)

3) **How can Australia best utilise its national strengths to enhance the impact of our development program and address multidimensional vulnerabilities?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Program design and consultation can be aspirational therefore road map needs to be set out in milestones.	True partnership Planning alignment	Concept, design, consultation, stakeholder "buy in" inception and implementation need formal gateways that get approval and budget from/to	Partnership program decisions to be underpinned by joint problem solving(4)

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[5] https://unctad.org/news/partnership-deliver-online-dispute-resolution-consumers

[6] https://unctad.org/system/files/non-official-document/ccpb_IGECON2022_presentation_silk_road_financial_inclusion_en_0.pdf

[7] https://www.dfat.gov.au/sites/default/files/australia-assists-mid-term-review.pdf

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		those delivering and those partnering in a known structured format in all programming All domestic agencies have outcomes against overarching development ToC	
Recipient of development assistance needs to have committed to program formally after design and before program ratified	Expectation management	those delivering and those partnering in a known structured format in all programming All domestic agencies have outcomes against overarching development ToC	Negotiate recipient country agreements prior to inception of program(18) Monitor and Evaluate – taskforce or joint teams undertaking multiple WoAG implemention (including across Department and Third party delivery -not just per program)(19)
Technical capacity building needs to include values messaging throughout	Common understanding	Values messaging in all delivery	Include leadership, inclusion and human rights education as sub-themes in all programming(16)
Knowledge of outputs of previous funded programs should be known and provided as base for future funding Third parties delivering (for Aust) should be required to transfer knowledge management for future use	Want to avoid reinventing the wheel – If another department/agency is delivering or funding delivery by a third party and it is related programming it should be known, co-ordinated and built upon	Must connect to current architecture and back to the evidence on priority and impact needs and learnings from related previous programs	Use knowledge and political economy analysis to determine priority and impact decision(17)

4) **How should the new policy reflect the Government's commitments to build stronger and more meaningful partnerships in our region, founded on mutual trust and respect and shared values of fairness & equality?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Branding needs a complete simplification	Need to be clear about who we are as a partner Need to use branding that says what we are -partners	Lots of stakeholders within Australia private and public sector – need to clearly articulate in policy to bring it back to first principles	Keep branding simple – "Australia Partners"(then) Program name and delivery lead.(7)
With many varied systems of government and departmental structures across the Indo-Pacific many countries appreciate fact finding information on how others do things and then partnering to assist in problem solving as to how best practices might fit into their environment, customs and laws. Taking these opportunities and contributing in whatever the challenge is value adds	Complex systems may not have immediate solutions Recipient countries will only get sustainability if it can work within their systems and processes Recipient countries become the drivers of change Opportunities available to be taken up in the enforcement and compliance areas	Holdings on current recipient priorities and management of impact and foundational direction centrally can then feed into all future programming Providing assistance and value adds is a building block for improvement	Share best practice methodologies and lessons learnt in leadership and other forums with Partners.(3)
Asia Pacific Group on Money Laundering[8] has existing structure for technical assistance –	Highly regarded structure with 42 jurisdiction partners where dialogue on needs to combat money laundering is	Utilise existing capabilities to the fullest.	Underpin program decisions through capture of holistic knowledge

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[8] http://www.apgml.org

| Australia should step up on requests for these sorts of bodies where development needs are already known and agreed | ongoing and mature and Partner States readily seek assistance | Holdings on current recipient priorities and management of impact and foundational direction by DFAT could then feed into all future programming

Use private sector if WoAG does not have the capacity under lead of relevant agency | management requirements.(2)

Enhance long standing existing structures if they meet Priority and Impact criteria (ie APG, Interpol etc)(22) |

5) **What lessons from Australia's past development efforts should inform the policy? What is Australia seen to be doing comparatively well?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Governance has positive attributes but does not tie back sufficiently to:

-ensure no duplication - ensure management within public sector holistically value adds to the delivery / program outcomes.
– does not sufficiently collect opportunities that Diplomats can factor into agreements | Delivery of programs by Government departments/agencies is often outsourced and gains and opportunities to maximise relationships and further assist are held in silos

Individual program Baselines are often part of the inception of a program and undertaken in isolation of other (previous or current) Programming

Recipient partners won't have to repeat their priorities. | Efficiency

Sustainability

Ability to prioritise for impact | Underpin decisions with holistic knowledge management.(2)

Mature communications to focus on the partnership relationship with the key stakeholders (within Australia and within Recipient country).(8) |
| Mapping of other donor programming and co-ordination needs more structure.

Whilst partners will always make their own Bi-lateral decisions on programming and development, some education on the pitfalls or confusion if different methodologies are used should be factored in. | Partners can have donor fatigue but still a long list of needs

Failure to Co-ordinate misses opportunities to assist in systems enhancement

Different methodologies create confusion | Australia's interest is in being a true partner – actions need to show that outcome for recipient country is primary.

Law and regulation compliance and enforcement applies uniquely to each sovereign state | Looking for opportunities for Donor co-ordination, "partnerships that recognise and support the collective strength"[9](5)

Build a cohort of trusted Australian Advisors across groups of thematically related stakeholders per country/region with direction setting input into multi-departmental delivery groups.(23) |
| Assistance needs to be across all areas that can influence change. Ie if assistance is given to drafting new laws, then police need to be trained in new powers or offence elements, prosecutors need to be educated on the laws, courts or prisons need to consider consequences | Change needs all stakeholders working together to embed new systems and processes. | Holistic approach needed for change and momentum in new and emerging areas.

Complementary skills often allow improvement to be capitalised on at a faster rate to just the thematic skills | Include program delivery across the continuum of all related elements.(6)

Use complementary programming with thematic programming (ie English language or mediation skills that have day to day impact in change and embedding systems).(20) |

[9] Speech 22/2/2022 Secretary General Henry Puna at Ministerial Forum for co-operation in the Indo-Pacific, https://pina.com.fj/2022/02/25/the-big-picture-for-our-big-ocean-states-in-2022-thoughts-from-the-blue-pacific/

6) **How should the performance and delivery systems be designed to promote transparency and accountability, as well as effectiveness and learning in Australia's development assistance?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Whilst collection of environment and opportunities should be ongoing through out a program, the starting point of what is known and where new initiative fits in an to overall ToC is important (not just per program) "Australia Partnering" outcomes should be part of the design	Knowledge collection needs improvement Some duplication Programming should fit into overall architecture of priority and impact requirements	Database of baseline material, relevant open source **and** results from previous related programs to be used as the starting point for new designs and then programming	DFAT to maintain and supply baseline partnership information as part of Program designs to aid in clarity of purpose within overall architecture of programming, with open source data integral to holdings.(1)
Some complementary organisational design of domestic agencies would enhance efficiency of cross agency delivery of outputs	All arms of Statecraft application in aid delivery requires Australian response that identifies and then uses all the touch points within the Australian agencies most able to assist/deliver	M & E for international development needs to be part of each agencies remit and reporting – including a direct connection to acquitting against the Development Policy Include capturing collective action opportunities as part of WoAG measures	Monitor and Evaluate – taskforce or joint teams within multiple WoAG implemention (including across Department and Third party delivery -not just per program).(19)

7) **How should the new policy address the role of ODA and non-ODA in supporting the development of our regional partners?**

Current Observation	Reason Important	Policy Consideration	Recommendation
Development in the area of Transnational crime prevention and detection may be enhanced by capacity development and technical assistance for both ODA & Non ODA[10] countries so all locations where criminal actors are found will have authorities policing as part of the regional solution to deal with Crime risks and activities. Capacity building activities in ODA countries may not permit the full scope of technical assistance due to definitions of what can be included in the ODA delivery. So complementary Non ODA funding could produce outcomes that align closer to priority and impact requirements	The transnational aspects of Law and Policing legislation and enforcement needs to be able to apply across borders or criminals will use opportunities to avoid detection and prosecution Equipment, Hardware and software tools are often required to practice and implement improved systems. These need to be able to be included in addressing the development need to maximise priority and impact	Options for blended models of funding and in kind support in programming. This can also include other donors All designs need to be tied back to thematic ToC across departments Core principle always being what we are doing is "Australia Partners"	Build a cohort of trusted Australian Advisors across groups of thematically related stakeholders per country/region with direction setting input into multi-departmental delivery groups.(23) Keep branding simple – "Australia Partners" – (then) Program name and delivery lead.(7) Include blended models of funding for both ODA and non-ODA streams within each Program.(12) Fund international development deployment within Government Departments so capacity to deliver policy imperatives are matched and measured (for both ODA and non-ODA capacity building).(9)

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[10] Annexure B

Annexure A

Building Together	
Architecture and Site Testing=	Knowledge Management and design
Foundations=	Partnerships
Plumbing/ Electrical=	Systems integration
Structural pillars=	Program for Impact and Priority
Roof=	Draw on all elements of our relationships to achieve our shared interests[11]
Walls=	Build Trust and Influence

Annexure B

ODA Status[12] for ASEAN and Pacific Islands Forum Countries 2022				
ASEAN[13] & PIF[14] Countries	**Least Developed Countries (Per Capita GNI Less than or equal to $1045 in 2020)**	**Lower and Middle Income Countries and Territories (Per Capita GNI $1046-$4095 in 2020)**	**Upper Middle Income Countries and Territories (Per Capita GNI $4096-$12695 in 2020)**	**Not ODA Countries**
Cambodia	X			
Myanmar	X			
Laos PDR	X			
Thailand			X	
Viet Nam		X		
Singapore				X
Brunei				X
Malaysia			X	
Indonesia		X		
Philippines		X		
Australia				X
Cook Islands				X
Federated States of Micronesia		X		
Fiji			X	
French Polynesia				X
Kiribati	X			
Marshall Islands			X	
Nauru			X	
New Caledonia				X
New Zealand				X
Niue			X	
Palau			X	
Papua New Guinea		X		
Samoa		X		
Solomon Islands	X			
Kingdom of Tonga			X	
Tuvalu	X			
Vanuatu		X		
Tokelau		X		