

18 November 2016

Department of Prime Minister & Cabinet
Canberra, ACT

Submitted by email to: ogp@pmc.gov.au

Formal Submission from Transparency International Australia on Australia's Draft Open Government Partnership National Action Plan

In making this submission, TI Australia fully supports submissions already made by *Publish What You Pay Australia*, the *Steering Committee of the Open Government Partnership Network Australia*, (of which TI Australia is a member), the *Development Policy Centre of ANU*, the *OGP Support Unit* and the *OGP Anti-Corruption Working Group*. It is not our intention to repeat any of the well-made, relevant and important points made in those submissions.

Preamble

It is important for all stakeholders to understand that this first NAP is not an end in itself. It is the very first step in an ongoing process towards open government in Australia. Open Government will take time and have many iterations along its lengthy journey.

In the period since the 2016 Federal Election, Government, as represented by the Department of Prime Minister and Cabinet, has demonstrated a strong sense of collaboration and co-creation and have worked with members of civil society in very good faith to develop this draft. Of course it is not a perfect process, such processes rarely are. There is a strong element of partnership and maturity in the process as it stands now – this should be acknowledged, not ridiculed. The improvement of the current draft NAP from that which was proposed earlier in 2016 is marked. They are fundamentally different documents with the current version containing a broad scope of issues and actions. It's not perfect – we all know that. But it will never be perfect for everyone. TI Australia takes confidence from the fact the draft NAP went to Cabinet and came back supported. That is a significant step in itself!

We submit that the current process and this draft NAP present a very solid foundation upon which we can all build in the years to come. This first NAP will directly inform the next Plan due in 2018/19. International experience suggests that the first NAP is always the hardest. Australia is in a strong position so early in its OGP journey to develop ever stronger NAPs with *SMART* milestones (as suggested by the OGP Support Unit) that will deliver reforms citizens notice and acknowledge. The current first NAP foundation can be further enhanced with some relatively straightforward improvements.

Transparency International Australia supports the current draft NAP and suggests the following improvements:

Recommendations

- **The scope of the NAP is broad**, with a fourteen commitments and numerous milestones. Whilst a broad scope is good as it covers many areas of government interaction with society that require attention, the volume of milestones may prove troublesome in the implementation phase over the coming two years. There is an opportunity to consolidate milestones and introduce stronger and more ambitious language into them.
- **Section 2: Efforts to Date** feels too long. The NAP needs to squarely focus on future reforms, not repeat existing initiatives. This is unfortunately consistent with the language used in Australia's UK Anti-Corruption Summit Commitments in May 2016. We recommend the language of the NAP be forward-looking as much as possible. For example, in Commitment 1.1 the NAP states: *"We will improve whistle-blower protections for people who disclose information about tax misconduct to the Australian Taxation Office. We will also consult on other reform options..."* An alternative wording may be *"We will **institute worlds-best-practice** whistleblower protections for people who disclose information about **corporate and** tax misconduct to the ATO, **ASIC and other Australian corporate regulators**. We will also **implement** other reform options..."* The focus of NAP commitments needs to be on implementing change at the highest possible standard. The Government can and should take advantage of the willingness of TI Australia and other organisations to collaborate on reforms that will generate tangible and measureable change for Australian society.
- Throughout the draft NAP, **what is missing is the strength of vision and ambition** required to deliver open government that will benefit all Australians. We would recommend less use of consultation (although consultation is an important step in the process) and a greater focus on implementation of commitments. This will send the strongest possible signal to Australians that open government is a Government priority. We note and support the OGP Support Unit's comments that in many cases it is difficult to identify where implementation of Commitment reforms identified via consultation will actually occur. For example, **Commitment 1.2 Beneficial Ownership** stops well short of implementation with milestones limited to recommendations to government. As other NAP submissions have noted, this is inadequate and lacks any sense of vision or ambition. We therefore encourage a full review of the language throughout the draft NAP to change the tenor of the document to one clearly demonstrating the political will to implement reform.
- **Commitment 5.1 Delivery of Australia's OGP NAP:** we recommend Government, at the earliest possible time, consults with civil society to identify existing tools and mechanisms whereby simple, effective, and real-time monitoring of Australia's progress against commitments can occur. In the spirit of partnership and co-creation, civil society will welcome the opportunity to support monitoring for the benefit of the wider public and to enable effective reporting into OGP on progress.

- Concerning **Australia's Leadership Internationally**, TI Australia fully supports the submission from the *Development Policy Centre* on improving aid transparency. It is vital for Australia's role as a development partner in the Indo-Pacific region (in particular) to 'walk the talk' and to remain committed to supporting good governance in the region. It is also critical for Australia to be seen as a leader in fulfilling its obligations under the **Sustainable Development Goals**. OGP provides a unique platform in which to demonstrate commitment, ambition and accountability to the SDGs within an existing framework that is readily accessible in the public domain.
- OGP at the **Sub-National level**: several references are made in commitments and milestones to engaging State and Local government in the OGP process. To date, little such engagement has taken place. International experience indicates that it is at the sub-national level where some of the most significant gains can be made in open government, transparency and accountability to citizens. This is, of course, due to the role of sub-national governments and agencies in service delivery. We therefore recommend that early in 2017 an OGP sub-national taskforce is established in Australia to identify State & Local government partners and components of the NAP where their engagement can add immediate value in implementation. Further, we recommend that preparation for leadership at the sub-national level for the second OGP NAP begin in 2017.

Transparency International Australia welcomes the Government's commitment to OGP and the completion of this draft NAP. We look forward to this NAP being finalised and for implementation to begin in earnest.

Yours sincerely

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