Explosive Weapons in Populated Areas:  
Australian views on scope and content of a political declaration  
15 November 2019

Australia recognises the challenges posed by use of explosive weapons in armed conflict in populated areas by State and non-State actors, and welcomes efforts by the international community to draw attention to this issue.

Australia considers that strengthening compliance with existing international humanitarian law will go a long way to more effectively regulate use of explosive weapons and reduce the incidence of civilian harm. In our view, a political declaration on EWIPA, should it be agreed that one was necessary and eventuates, must include at least the following elements:

• Condemn the targeting or indiscriminate killing of civilians with explosive weapons in violation of international humanitarian law.
• Reinforce the importance of universal respect for existing principles of international humanitarian law – in particular, the principles of military necessity, avoiding unnecessary suffering, and proportionality - which would, if universally respected, reduce civilian loss, injury to civilians and damage to civilian objects caused by the use of explosive weapons in armed conflict in populated areas.
• Recall that international humanitarian law applies to non-state actors who are taking a direct part in hostilities, and their use of improvised explosive devices and other explosive weapons in populated areas to target the civilian population is a clear violation of international humanitarian law.
• Underline that effective implementation of international humanitarian law requires appropriate attention in military doctrine, strategic directives, tactical instructions, rules of engagement, education, training and exercises of armed forces in the case of state actors, as well as the testing of new weapons and means and methods of warfare generally, before use in armed conflict.
• Recognise that, in certain circumstances, a failure to apply force, consistent with international law, in pursuit of military objectives can itself have serious humanitarian consequences such as prolongation of conflict, including by actors who do not comply with norms regulating armed conflict.
• Encourage ratification of, and ensure compliance with, international instruments regulating the use of explosive weapons, including the Additional Protocols to the Geneva Conventions, as well as the Convention on Certain Conventional Weapons and its protocols, the Anti-Personnel Mine Ban Convention and the Convention on Cluster Munitions.
• Encourage the sharing of good practices and operational policies relevant to reducing the risk of civilian harm in armed conflict in populated areas.
• Avoid any implication that any use of explosive weapons in populated areas is contrary to international humanitarian law, but instead distinguish between lawful use of explosive weapons in specific circumstances and use in breach of international humanitarian law.