



MEDIA RELEASE
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WA ABORIGINAL ELDERS UNITED IN CALL TO HALT DRAFT HERITAGE BILL

A group of Aboriginal Elders and senior Traditional Owners with cultural authority from across Western Australia have supported calls by the WA Alliance native title groups, including the Kimberley Land Council's protest at Parliament House earlier this week, to call for a halt to WA Labour introducing its draft *Aboriginal Cultural Heritage Act*.

The Elders, coming together as the Aboriginal Heritage Action Alliance (AHAA), wrote to Minister Stephen Dawson this week to express their legal and cultural concerns over the draft bill, which is set to be introduced to parliament later this year.

The group has unanimously agreed that the draft Bill provides no further protection for cultural heritage than was provided under its predecessor, the out-dated *Aboriginal Heritage Act 1972*, which allowed the destruction of Juukan Gorge.

Banjima Elder Slim Parker added:

"[Under that legislation], many other sites of cultural significance, which we have held since Creation time when mother Earth was *ngulyu-gamu* (meaning 'still soft') and provided our *jukurpa* (meaning 'Dreamtime') and Songline stories [have also been destroyed]".

The Elders Group states that the draft bill contravenes both national and international laws, including rights enshrined in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*.

The letter to the Minister

Elders advised the Minister that: "The Bill does not represent 'best practice' in the field of cultural heritage management or protection by any form or measure...The Bill affords the Minister unfettered and unsupervised power to make decisions in respect of cultural heritage and that, being the Minister is neither a cultural heritage holder, nor an Aboriginal 'knowledge holder' under the terms of the Bill, this contravenes both the objects of the Bill and the terms of UNDRIP."

"The terms and operations of the Bill amount to and will result in large-scale interference, damage and destruction of areas of cultural heritage for which we, the holders of this cultural heritage, give no consent, nor, under the terms and operations of this Bill, have the ability to stop."

The Elders group have labelled the draft bill a "short-sighted approach" which trades their invaluable cultural heritage for short-term economic gain, which they state is "out-dated and irresponsible land management" and ultimately unsustainable.

The Elders group calls on the Minister to withdraw the bill in its entirety and commence mediation with the state's Traditional Owners to co-design a best practice heritage reform.

Traditional Owners' submissions ignored

Nyikina Warrwa Elder, Dr Anne Poelina, stated: "We reject the suggestion made by the current Minister that Traditional Owners were provided adequate opportunity to be consulted on the

Draft Act. Traditional Owners worked hard to detail their many concerns in the narrow 8-week submission period to June 2020, which coincided with extended COVID lock-downs in Aboriginal communities. The State Government ignored these submissions. The letter from the AHAA group to the Minister repeated all the concerns in the submissions and we hope the Minister withholds introduction of the Draft Act.”

“We feel let down and disappointed by ex-Minister Ben Wyatt who appears to have broken Ministerial Code of Conduct by taking up Directorship of the Boards of Rio Tinto and Woodside. He walked away, failing to engage with us on fair terms, leaving finalisation of this critical law in the hands of Minister Stephen Dawson.”

Dr Poelina’s submission to the draft Bill identified the inability to reform and not review the 1972 Act.

“This, coupled with the illusion of probity, give rise to questions of Ministerial Code of Conduct of our former Minister, Ben Wyatt. He failed to protect and preserve Aboriginal heritage as ‘world cultural heritage’. This will be his legacy,” said Dr Poelina.

Nanda Widi Elder, Clayton Lewis, says of the Draft Act:

“It’s been widely canned by First Nations groups, heritage professionals and other observers, and all that the State has to say is that they have consulted widely”.

Minister Dawson says ‘no guarantees’ Juukan will never happen again

Minister Dawson is on record saying that he cannot guarantee that another major sacred site complex, such as Juukan, will be protected against destruction.

Minister Dawson has also claimed that the new Act will afford Traditional Owners more decision making power over their cultural heritage. The Act does not do this. It is in fact the proponent who is afforded many more powers under the Bill than the holders of cultural heritage.

The Draft Act limits how and whether areas of cultural heritage may be protected. Under it, the Minister holds the right to declare an area to be of ‘outstanding importance’. In doing so, however, the Minister must weigh this decision with his duty to consider the sites’ ‘social and economic benefit to the State’. This test will result in the Minister deciding for the proponent where there is economic benefit to be had.

“Our heritage should not and must not be measured against the economic benefit of the State. We also see that the Minister’s duty to consider the economic benefit of the State conflicts with his position as protector of Aboriginal cultural heritage,” said the Elders group.

Right to Consent undermined

The right to current, free, prior, and informed consent is a mandated right for Indigenous peoples, under the UNDRIP, to which Australia has been committed since 2009. The Minister maintains the right to override Traditional Owner requests to protect sacred sites, and may instead consent to proponents to destroy places of significance as is in the current *Aboriginal Heritage Act, 1972*. This means that Traditional Owners cannot prevent another Juukan-style disaster either.

Darren Farmer, a Martu elder from the Western Desert, explains that, “Traditional Owners should be able to say if they [miners] can’t go there, and that’s that.”

The Aboriginal Heritage Action Alliance (AHAA) is a community action group to protect cultural heritage and keep the Government accountable. Let’s preserve heritage for Western Australians. Let’s preserve heritage for all.