

Question on Notice	Mishka Holt – NTSCORP Limited Response
<p>Page 21 of the Transcript</p> <p>Mr DAVID SHOEBRIDGE: My time is very close to concluded, but can I ask each of the witnesses one more question. What is your view about the priority of the Government here? We are progressing changes to the 1977 Heritage Act and prioritising those legislative changes, and not progressing through any similar process empowerment of First Nations peoples and standalone Aboriginal heritage law reform. The Government has said that they have got a separate process, they are working with stakeholders. Do you accept the priorities are right?</p>	<p>The development of standalone Aboriginal Cultural Heritage legislation remains a central priority of the Aboriginal People of NSW. From NTSCORP's perspective it is critical to develop a model for reform which will see Aboriginal People's sites protected for future generations and which will ensure Aboriginal People's ownership and management of Aboriginal Cultural Heritage. Reform which incorporates broader recognition and definitions of Aboriginal Cultural Heritage, including intangible heritage and the inclusion of seas and waters, as well as land based landscapes.</p> <p>The reform model should be led by Aboriginal People and the development of legislation should have the prior, informed consent of Aboriginal People, including through Aboriginal community consultation. This requires sufficient time for the Aboriginal parties to work together and then participate in the co-design process with Government.</p> <p>The decades of advocacy by Aboriginal People for the development of standalone Aboriginal Cultural Heritage in NSW, without the enactment of that legislation, demonstrates that the priorities have not been right.</p> <p>Prioritisation of Aboriginal Cultural Heritage legislation by Government can be demonstrated by the commitment of sufficient funding to ensure that an Aboriginal Cultural Heritage Authority, which is independent of Government, can be established and the Local Panels supported to undertake their role under the new legislation.</p> <p>Prioritisation of Aboriginal Cultural Heritage legislation by Government can also be demonstrated by embracing the right to veto by Aboriginal People when it comes to proposals to destroy cultural heritage, as well as the inclusion of state significant infrastructure and major development in the protection regime.</p> <p>NTSCORP welcomes the opportunity to continue working with the Aboriginal parties and Government to ensure Standalone Aboriginal Cultural Heritage legislation is finally enacted in NSW.</p>
<p>Page 23 of the Transcript</p> <p>The Hon. BEN FRANKLIN: Thank you. I understand we are getting close to time but if either Ms Holt or Ms Chalker had anything quickly</p>	<p>As the Discussion Paper for the Review highlighted Aboriginal self-determination and custodianship must stand at the centre of any</p>

they would like to add, please do so. If either of you wanted to talk in a more substantive way about how we can incorporate cultural authority and speaking for country into the legislation, you could certainly take that on notice if you had some more detailed thoughts. But if you had something short, noting time, then that would be wonderful as well.

legislation that deals with Aboriginal cultural heritage.

Culture must be the central consideration in the legislation's design and the legislation must respect the traditional systems which have been in operation in Aboriginal communities in NSW for millennia. In NTSCORP's view it must be a system in which Aboriginal Traditional Owners speak for their Country and make decisions about what occurs there.

NTSCORP considers that cultural authority can be incorporated into the legislation by ensuring that there are Local Consultation Panels with management responsibility for localised Aboriginal Cultural Heritage issues and that those Panels are comprised of Aboriginal Traditional Owners with cultural legitimacy, including that in areas of land, waters and seas which have been subject to a native title determination the Panels should be solely comprised of native title holders nominated by the native title prescribed body corporate for the determination area.

Where native title has not been determined, the Local Consultation Panels should comprise Aboriginal Traditional Owners with cultural knowledge and cultural authority to speak for Country. Provisions ensuring representation of the registered native title claimant where there is a registered native title claim and representation of the native title prescribed body corporate or registered native title claimant where there is an ILUA should be included.

In NTSCORP's view the legislation should also contain a transition provision to provide for native title holders to assume the functions of the Local Panel once there is a native title determination for an area.