

**Submission
No 10**

**INQUIRY INTO ABORIGINAL CULTURAL HERITAGE
(CULTURE IS IDENTITY) BILL 2022**

Organisation: Christian Voice Australia (CVA)

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**CHRISTIAN
VOICE AUSTRALIA**
Advocacy from a Biblical Perspective

**Submission Into the
Aboriginal Cultural Heritage
(Culture Is Identity)
Bill 2022**

by

Christian Voice Australia (CVA)

Greg Bondar

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and

Former CEO Tharawal Local Aboriginal Land Council (TLALC)

September 2022

1. Introduction

Christian Voice Australia (CVA) is a national non-denominational organisation advocating on social, cultural, economic, and religious issues of concern.

Christian Voice Australia's National Director Greg Bondar held the role of CEO at the **Tharawal Local Aboriginal Land Council (TLALC)** and was a member of numerous Aboriginal organisations including the NSW Aboriginal Land Council, Office of the Registrar, Aboriginal Land Rights Act 1983, Sydney-Newcastle Alliance for Culture Rights & Economic Development, Wollondilly Aboriginal Advisory Committee, Banyadjaminga SWAAG Incorporated.

At Tharawal, I was responsible for protecting and conserving the Aboriginal cultural and heritage environment within the Tharawal LALC boundaries and working closely with NSW national parks and reserves, the Minister for Aboriginal Affairs, and the Minister for Environment. I also completed a ***Certificate in Aboriginal Site Awareness - NSW Office of Environment and Heritage***.

Prior to the bill's introduction in the Legislative Council by Reverend the Hon Fred Nile MLC on 21 June 2022, CVA provided research and cultural input into the bill.

2. Our Submission: Overview

Christian Voice Australia (CVA) fully supports the tenets of the bill as it seeks to provide a modern framework for the recognition, protection, conservation, and preservation of Aboriginal cultural heritage and recognise the fundamental importance of Aboriginal cultural heritage to Aboriginal people.

In particular, *Christian Voice Australia (CVA)* supports:

2.1 The establishment of an Aboriginal Cultural Heritage Council, with responsibility for:

- a) granting permits, approvals, and management plans for the management of activities that may harm Aboriginal cultural heritage,
- b) making orders to stop, prohibit or remediate activity that may harm Aboriginal cultural heritage,
- c) endorsing Aboriginal cultural heritage protection agreements, and
- d) designating local Aboriginal cultural heritage services, with responsibility for:
 - i. engaging and negotiating with persons intending to conduct activities in the area and native title parties and knowledge holders for the area
 - ii. making Aboriginal cultural heritage management plans for the area
 - iii. providing advice to persons about whether Aboriginal cultural heritage is located in the area

Christian Voice Australia (CVA) also supports

- e) setting out the rights and duties of various persons in relation to Aboriginal cultural heritage and the management of Aboriginal ancestral remains and secret or sacred objects

- f) providing special protections for land where there is Aboriginal cultural heritage of outstanding significance
- g) offences relating to harming Aboriginal cultural heritage
- h) establishing the Aboriginal Cultural Heritage Directory.

Christian Voice Australia (CVA) fully stresses that the key objects of this bill are to recognise the fundamental importance and significant role of Aboriginal cultural heritage to Aboriginal people and to the wider New South Wales community.

Christian Voice Australia (CVA) fully supports the bill as it seeks to recognise that Aboriginal people have custodianship over Aboriginal cultural heritage and seeks to promote access to Aboriginal cultural heritage for future generations.

3. Our Submission: Key Summary

When I was CEO of the Tharawal Local Aboriginal Land Council (TLALC) I was privileged to have a team of dedicated aboriginal staff work with me to promote the protection of Aboriginal cultural heritage within the Tharawal region boundaries stretching from the southern and southwestern Sydney area from the south side of Botany Bay, around Port Hacking to the north of the Shoalhaven River (Nowra) and extending inland west to Campbelltown and Camden.

My role at “Tharawal” or “Dharawal” as it is referred to in historical records refers to the original peoples of the region, was to improve and foster the social, economic, physical, and mental wellbeing of its members and all Aboriginal people within the Tharawal LALC boundaries but particularly to improve, protect and foster the best interests of all Aboriginal persons and Culture within the said boundaries.

It is for this reason that the tabling of Rev Hon Fred Nile’s latest proposed legislation on the Aboriginal Cultural Heritage Bill 2022 is much welcomed and long overdue.

Many will recall that in May 2020, Rio-Tinto blasted the 46,000-year-old Juukan Gorge rock shelters in the Pilbara region of Western Australia (The Guardian 26 May 2020). The area was sacred to the Puuti Kunti Kurrama and Pinikura peoples. Worse, the Western Australian Government’s Aboriginal Cultural Material Committee had approved the seemingly unintended destruction under section 18 of the Aboriginal Heritage Act in 2013.

One could wax lyrical for pages and pages on the need for Aboriginal cultural heritage preservation and reform but suffice it to say that unless there is legislative protection the cultural heritage of Aborigines it will be lost – forever. At present, most Aboriginal cultural heritage in NSW is protected and managed under the provisions of the National Parks and Wildlife Act 1974. Those provisions however do not give Aboriginal people enough say over the management of their cultural heritage and further,

- Are outdated and often criticised by both the Aboriginal community, industry, and development proponents,
- Are inflexible and inefficient to administer,
- Do not produce the best heritage outcomes.

What is cultural heritage you ask? In a layman's sense examples include tangible assets such as visual art, food, clothing, and styles of shelter along with intangible assets such as legends, music, and values like dreamtime or respect.

For these reasons, inter alia, the obligation to protect all aspects of Aboriginal heritage arises under numerous international instruments to which Australia is a party, including Article 27 on the International Covenant on Civil and Political Rights. More recently Australia has endorsed the Universal Declaration on the Rights of Indigenous Peoples. Article 11 (1) of the Declaration confirms:

'Indigenous peoples have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present, and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.'

There is also progress following the 2018 Draft Bill and consultation with the Minister for Aboriginal Affairs, the Hon. Ben Franklin, addressing the Aboriginal cultural heritage (ACH) reforms.

All Australians need to work with Aboriginal communities to celebrate, protect and manage Aboriginal cultural heritage in NSW. Whilst at TLALC I recall working with major housing developers to ensure the protection of the Tharawal cultural heritage.

The beauty of Fred Nile's Bill is that it is aimed at preventing the destruction of Aboriginal heritage by awarding true custodianship of sites, objects and remains to a newly created state agency; the Aboriginal Cultural Heritage Council (ACH). The ACH itself designates local services for specific sites, objects and remains of Aboriginal Cultural Heritage and any permits to move, harm or destroy said items must be approved by the ACH in consultation with the local service and Aboriginal stakeholders.

One of the key proposed reforms by Fred Nile is that an Aboriginal Cultural Heritage Council (ACH) is to be established that has the ultimate say on whether the site, object or remains of Aboriginal heritage may be altered, damaged, or destroyed. The ACH must be comprised of Aboriginal persons of relevant qualifications and experience with an equal gender ratio. The ACH will create local services to manage specification sites, objects and remains.

Further, the Aboriginal Cultural Heritage Bill 2022 seeks to award custodianship of all sites, remains and objects of Aboriginal Cultural Heritage to an Aboriginal Cultural Heritage Council. The future of Aboriginal Heritage must be decided upon by First Nations peoples themselves rather than a political class of which they have little to no representation.

Time for an Aboriginal cultural heritage bill in NSW to become a reality. *Semper ad Meliora*

Greg Bondar
Christian Voice Australia (CVA)
September 2022