

**Submission
No 17**

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

Organisation: NSW Aboriginal Land Council

Date Received: 19 September 2022



Via email: portfoliocommittee7@parliament.nsw.gov.au

Dear Chair and Committee Members

Inquiry into the *Aboriginal Cultural Heritage (Culture is Identity) Bill 2022*

Thank you for the opportunity to make a submission in relation to the *Aboriginal Cultural Heritage (Culture is Identity) Bill 2022 (the Bill)*.

The NSW Aboriginal Land Council (**NSWALC**) supports the Bill and urges all Parliamentarians to support its passage through NSW Parliament as a matter of urgency.

The Bill represents significant improvements on the current outdated, flawed and offensive laws, primarily contained in the *National Parks and Wildlife Act 1974 (NSW)*.

The Bill meets NSWALC's long held key reform principles, aligned with key principles outlined in the United Nations *Declaration on the Rights of Indigenous Peoples (UNDRIP)*, and developed following engagements with Aboriginal communities.

NSWALC's key reform principles

- a. Strengthen self-determination and empower Aboriginal people;
- b. Be led by Aboriginal people;
- c. Inclusive and respectful of cultural and native title rights;
- d. Build on existing structures of land rights and native title;
- e. Independent of government;
- f. Improve ACH protection, promotion & repair, including rights to say no (free, prior, informed consent) including approaches to protection, regulation, intangible ACH, knowledge, languages, cultural access & use, repatriation, water, cultural practices;
- g. Have no detrimental impacts to land rights, native title or ACH.

NSW is the last jurisdiction in Australia without modernised Aboriginal Cultural Heritage (**ACH**) laws. This Bill represents a significant opportunity for this Parliament to finally deliver long overdue, meaningful laws, in the making for over 40 years.

We note that both the Government and the Opposition made a bi-partisan commitment to reform in NSW Parliament in 2010. We urge the Government and Opposition to make good on their commitments by supporting this Bill.

We also note that this Bill has been supported by cross-party members. We thank relevant Members for their work and bringing much needed Parliamentary attention to this important matter. We also acknowledge the significant contributions of the many Aboriginal communities across NSW who continue to fight for the protection of our living cultural heritage, for all of us now and for future generations.

Key recommendations

1. **That all political parties support the ACH Bill and support its passage through Parliament as a matter of urgency in this term of Parliament.**
2. **That the NSW Parliament work with us in good faith to secure the passage of the Bill.**

Urgent need for reform

While we appreciate that some have raised a desire for further consultation on the Bill, we are concerned that further delays will only serve to undermine the protection of ACH and allow a broken system to remain in place.

NSWALC consults regularly with Aboriginal communities on ACH matters. Our principles for reform have been developed and refined on this basis. We have measured the Bill against these principles, which the Bill meets. We note the Bill builds on many concepts of previous models consulted on over many years.

It's important that this Bill is passed now to secure reforms and establish key overarching structures and improvements now. We note the Bill will not switch on overnight. Time will be needed to establish the ACH Council and relevant elements. Some minor amendments to the Bill can provide for staged commencement to support this.

Self-determination

This Bill strikes an important balance in establishing an improved regulatory system and enabling structures. The Bill will greatly assist in achieving an improved, more efficient and fit for purpose ACH regulatory framework. In line with self-determination, it's appropriate to provide for the ACH Council to set more detailed policies and guidelines on a number of matters, that will be subject to further community consultation.

Next steps

We welcome the opportunity to discuss any points of clarification or concerns about the Bill. We stand ready to work in partnership with all Parliamentarians to support this Parliament leaving a positive legacy in respect to ACH. We urge Parliament to make good and not miss this important reform opportunity.

If there are any concerns, we believe that with some fairly minor amendments these issues could be addressed so that the Bill can proceed. Furthermore, a number of elements that are more operational will be dealt with via implementation.

We do have some concerns that some misrepresentations and misleading statements have been made about the Bill. We hope that going forward discussions can proceed in good faith, rather than scaremongering and seeking to use this Bill for political purposes.

We would like to move forward in the spirit of the genuine partnership and would welcome the opportunity to further discuss these matters and ensure we are moving forward together. Over many decades there has been continued inaction in ACH law reform in NSW. This Bill provides an opportunity to rectify this.

NSWALC will continue working to ensure that NSWALC's longstanding reform principles are upheld.

Sincerely,

Yuseph Deen

Chief Executive Officer

Date: 19/9/22