



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ENVIRONMENT, CLIMATE CHANGE AND BIODIVERSITY
Dr Marisa Paterson MLA (Chair), Ms Jo Clay MLA (Deputy Chair), Mr Ed Cocks MLA

Submission Cover Sheet

Inquiry into ACT's heritage arrangements

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HERITAGE COUNCIL

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Dear Ms Paterson

Thank you for your letter dated 6 February 2023 inviting the Victorian Aboriginal Heritage Council (Council) to make a submission on the **Inquiry into the ACTs heritage arrangements**.

The Aboriginal cultural heritage management system that operates in Victoria today commenced on 28 May 2007 with the establishment of the *Aboriginal Heritage Act 2006* (Vic) (the Act). The Act superseded the *Archaeological and Aboriginal Relics Preservation Act 1972* (Vic). With the assent of the Act, the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (ATSIHPA) was also amended. Schedule 1 within ATSIHPA identified local Victorian Aboriginal communities who could exercise certain rights within ATSIHPA. The newly established registered Aboriginal party (RAP) system, that is a significant aspect of the current Victorian legislation, would replace the previous system for recognition that existed within ATSIHPA.

The Act is supported by an accompanying piece of legislation, the Aboriginal Heritage Regulations 2018 (Vic) (Regulations). The Regulations first became law in 2007 at the same time as the Act. The Regulations includes standards, definitions, and other key information relevant to the legislative framework set out by the Act such as what constitutes a high-impact activity, areas of cultural heritage sensitivity, exempt activities, what constitutes a cultural heritage management plan and fees.

The Department of Premier and Cabinet administers the Act and the accompanying Regulations and regulates Victoria's Aboriginal cultural heritage management system. In early 2021, a new Group was created within DPC called First Peoples – State Relations. The bulk of the Act is regulated and administered by First Peoples – State Relations, Traditional Owner Relationships and Heritage. Council strongly urges your organisation to reach out to that division of FP-SR for comment on their role, responsibilities, and functions as per the Act.

The primary purpose of the Act is to:

- provide protections for Aboriginal cultural heritage (tangible and intangible);
- empower Traditional Owners as protectors of their Cultural Heritage on behalf of Aboriginal people and all other peoples;
- to strengthen the ongoing right to maintain the distinctive spiritual, cultural, material, and economic relationship of Traditional Owners with the land and waters and other resources with which they have a connection under traditional laws and customs; and
- to promote respect for Aboriginal cultural heritage, contributing to its protection as part of the common heritage of all peoples, and the sustainable development and management of land and the environment.

The Act, which applies to public and private land across Victoria, is widely acknowledged as the strongest legal framework for the protection of Aboriginal cultural heritage in Australia.

The Victorian Aboriginal Heritage Council (Council) was established under the Act. Council is made up of eleven Traditional Owners appointed by the Minister for Treaty and First Peoples. Council's primary function within the Act is the appointment and monitoring of registered Aboriginal parties (RAPs). To date, Council has appointed 12 RAPs to 75 per cent of the State. Council anticipates 100 per cent coverage within the next 5 to 10 years.

With the 2016 amendments to the Act, Council's function expanded significantly to include the care and management of Aboriginal Ancestral Remains and Secret or Sacred Objects. State entities and institutions such as museums and universities were required to transfer any Ancestral Remains in their care to the Council within two years.

Council's vision is of a community that understands and respects Aboriginal cultural heritage and the cultural responsibilities of Traditional Owners. Council recognises Traditional Owners as the primary guardians, keepers, and knowledge holders of their culture. To achieve this, Council engages with Victoria's wider community to raise awareness of and respect for Victorian Aboriginal cultural heritage.

In 2021 Council undertook an extensive program of engagement with its own members and that of registered Aboriginal parties (RAPs) in the development of *Taking Control of Our Heritage – Recommendations for Reform of the Aboriginal Heritage Act 2006*. The document and the preceding discussion papers can be found here: <https://www.aboriginalheritagecouncil.vic.gov.au/taking-control-our-heritage-recommendations>.

In 2023, it is anticipated that several minor and technical amendments to the Act will be progressed to clarify unclear sections and inconsistencies. Beyond this, Council anticipates a major review of the Act in this term of government that will seek to address matters such as Indigenous Cultural Intellectual Property rights, definitions as to what constitutes an area of cultural heritage sensitivity, and definitions as to what constitutes a high-impact activity.

As the primary statutory voice for Victorian Traditional Owners, Council contributes to significant reform work on the national level. This includes the Joint Standing Committee on Northern Australia's Inquiry into the destruction of Juukan Gorge, the Review of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* and the Review of the *Environment Protection and Biodiversity Conservation Act 1999*.

If you are interested in more information on Council's current or previous work, or on registered Aboriginal parties (RAPs), there is plenty of content on Council's website.

Thank you for the opportunity to contribute to your **Inquiry into the ACTs heritage arrangements**. Council wishes you well on your journey and hopes the inquiry improves protections for Aboriginal cultural heritage in the ACT.

Yours sincerely

Denise Lovett
Chairperson
Victorian Aboriginal Heritage Council