



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

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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

**Submission Number: 023**

**Date Authorised for Publication: 4 April 2023**

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STATE ABORIGINAL HERITAGE COMMITTEE

Dr Marisa Paterson  
Chair  
Standing Committee on Environment, Climate Change and Biodiversity  
Legislative Assembly for the Australian Capital Territory  
By email: LACommitteeECCB@parliament.act.gov.au

Dear Dr Patterson

Thank you for the opportunity for the State Aboriginal Heritage Committee (Committee) of South Australia to provide a submission to the *Inquiry into the ACT's heritage arrangements*.

The Committee is established under the *Aboriginal Heritage Act 1988* (SA) (Act).

The Act provides that the Committee will be comprised of Aboriginal persons drawn, as far as is practicable from across the state, to represent the interests of Aboriginal people in the protection and preservation of Aboriginal heritage.

Committee members are appointed by the Minister for Aboriginal Affairs (Minister). Appointees do not represent their own cultural groups but collectively represent the experience, knowledge and considerations of Aboriginal people interested to protect their heritage.

A live register of member interests is maintained to ensure conflicts are well managed.

The Act provides for specific functions of the Committee that focus on the provision of advice to the Minister, namely in the areas of Ministerial authorisations to excavate for; damage, disturb or interfere with Aboriginal heritage; the appointment of suitable persons as inspectors; the approval of agreements made outside of the Act, such as native title mining agreements, and strategic advice on measures to protect and preserve Aboriginal heritage in the state.

Since 2017, the Committee has decided the appointment of recognised Aboriginal representative bodies (RARBs), generally registered native title bodies corporate (RNTBCs) that must ascertain and represent the views of all Traditional Owners of heritage likely impacted in agreement contexts, including Traditional Owners of heritage that are not their members.

Ministerial approval must be given for the Committee to establish sub-committees should it seek to investigate matters in relation to Aboriginal heritage.

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Historically, the Committee has expressed a desire to enjoy the status of a statutory authority, with its own budget and staff, so it may more freely determine its own directions and priorities. The only Aboriginal heritage committee or council in Australia with such status is the Victorian Heritage Council.

The Act is the sole legislative instrument in South Australia committed to the preservation and protection of Aboriginal heritage in South Australia where practicable.

The Act is currently subject to minimal review. The review anticipates wider federal reforms, and therefore does not contemplate provisions that the Committee sees as essential in any modern Aboriginal heritage legislation, such as mandatory engagement with Traditional Owners of Aboriginal heritage and the requirement to develop cultural heritage management plans (CHMPs) prior to ground-disturbing works. It will therefore remain that the Act primarily protects heritage through breach provisions and that the Minister or inspectors may issue directions to protect Aboriginal heritage. The proposed amendments will impose more stringent reporting regimes on discoveries of Aboriginal heritage and cease work provisions, though these are limited to authorisation contexts.

The administration of the Committee is provided by Aboriginal Affairs and Reconciliation (AAR), most directly through a committed Executive Officer. In 2022, AAR moved from the Department of the Premier and Cabinet to the Attorney-General's Department as the relevant Minister is also the Attorney General under the current Labor government.

The Committee meets every six weeks throughout the year. The meeting calendar is published 12 months in advance, with capacity for out-of-session meetings as required. The regular and forward scheduling of meetings facilitates early scheduling of matters for the Committee's consideration that AAR has in preparation, particularly matters where Committee consultation is mandated. This assists AAR to prioritise its work and establish project plans and workflows.

The administrative support and service provided to the Committee generally aligns with the core business of the AAR Heritage Team.

The Manager, Aboriginal Heritage attends each Committee meeting to provide advice and support to the Committee's deliberations, as well as broader information on Aboriginal heritage matters within the state and elsewhere.

Members of Committee and AAR are equally subject to the Public Service Code of Conduct. In addition, members must comply with honesty and accountability requirements for government-appointed boards and committees. Conduct between Committee members is self-regulated under meeting rules established by members and enforceable by the Chairperson as required.

The circumstances of the Committee in South Australia appear markedly different to those of the ACT Heritage Council (ACT Council). Appointed under legislation committed solely to Aboriginal heritage protection, and comprising an all-Aboriginal membership, the Committee may act collaboratively united by common interests and a shared mission.

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The remit of the ACT Council is multifarious and complex in comparison. Council membership reflects its multifaceted functions and obligations under the *Heritage Act 2004* (ACT) (Heritage Act). On reviewing the Heritage Act, it appears to impose a heavy administrative impost on both the ACT Council and the ACT Heritage Unit that may prove challenging to manage within no doubt finite resources and the minimum meeting schedule required under the Heritage Act.

I trust the Committee's observations are of assistance to you.

Yours sincerely

Fiona Singer  
Chairperson  
State Aboriginal Heritage Committee  
27 March 2023