

14th December 2021

Honourable Stephen Dawson MLC
Minister for Mental Health; Aboriginal Affairs; Industrial Relations
Via Email: Minister.Dawson@dpc.wa.gov.au

To the Hon Stephen Dawson MLC, Minister for Aboriginal Affairs,

Banjima Native Title Aboriginal Corporation (BNTAC) are writing to you to address statements you made in the Legislative Council on Thursday 9 December 2021. These statements were made during the second reading of the *Aboriginal Cultural Heritage Bill 2021* (the Bill), which left us confused and concerned.

During the debate you stated the following:

"PBCs have not written to us to say that they are not happy with the bill. People who risk losing out under this bill have been vocal."

We would like to bring your attention to the coordinated submission on the Consultation Draft of the *Aboriginal Cultural Heritage Bill 2020* (WA) from a collection of native title groups and Registered Native Title Bodies Corporate in the Pilbara and Western Desert.

On 6 October 2020, BNTAC hosted a Pilbara law men meeting in Perth. This was attended by the Minister Ben Wyatt and several of his team. Following this meeting BNTAC co-ordinated the gathering of comments from the Pilbara groups which comprised:

- Banjima Native Title Aboriginal Corporation
- *Kalka Niyaparli Aboriginal Corporation*
- Karriyarra Aboriginal Corporation
- *Martu People*
- *PKKP Aboriginal Corporation (Puutu Kunti Kurrama people and the Pinikura people)*
- Western Desert Lands Aboriginal Corporation
- Yindjibarndi Aboriginal Corporation
- Yinnhawangka Aboriginal Corporation

These groups engaged legal advisers to assist in expressing their comments. Given the time limitations placed upon this process, the comments comprised a collection of documents in a variety of levels of refinement which it was hoped would be of assistance to the government in understanding the concerns of the groups represented in progressing towards effective legislation to protect Aboriginal cultural heritage.

Minister, you also stated:

“Other PBCs, as I referred to earlier, have attended briefing sessions, including as late as August this year. They came along to us. They got the documents, they got the draft bill and they got the changes and they did not write to me afterwards to say that they were unhappy with the bill. That is the end of it.”

Minister, no we did not get presented with the draft bill. Therefore, we could not possibly write to you to tell you we are not happy with something we had not seen. We were waiting to see what feedback had been incorporated in situ in the proposed legislation before making a well-considered reply. We were giving you consideration. Unfortunately, like many other Traditional Owner groups and some industry stakeholders, BNTAC did not see an updated version of this Bill until it was published on the State Government’s website on the evening of 16 November 2021.

If your statements in parliament are referring to not hearing from PBCs on the Bill now being rushed through the Parliament, this is due to us not having time to read and respond to the 353 clauses which we have not had the privilege of reading prior to 16 November 2021.

We are now able to state direct to you and your office that we are not happy with the Bill that has been presented to Parliament. Even as PBC with more resources than others, it has been a great task to begin to assess the content of this final document you are pushing through Parliament.

We reiterate all our concerns expressed in our media statement that was published on 23 November 2021, of the impact this legislation will have on Australia’s cultural heritage, and risk it puts on developers’ license to operate.

As we previously quoted you: *“People who risk losing out under this bill have been vocal.”*

Indeed, we agree, people who risk losing out under this bill have been vocal. Traditional Owners and those who support the protection, recognition and celebration of Australia’s ancient cultural heritage have been vocal. And now the United Nations Committee on the Elimination of Racial Discrimination also shares the concerns we have expressed.

We once again ask why the government is rushing this important legislation through. There is no risk in giving this legislation the proper consideration it requires and deserves. Is the WA Labor Party willing to take steps to depart from what the United Nations has identified as the “structural racism of the cultural heritage legal and policy scheme, which has already led to the destruction of Aboriginal cultural heritage in Western Australia.”?

Yours sincerely,

Slim Parker
Chairman, Board of Directors and Senior Elder of Banjima Elders Council
Banjima Native Title Aboriginal Corporation.