

Disappointment at State Government's approach to Aboriginal cultural heritage protection

Senior Banjima Elder and Banjima Native Title Aboriginal Corporation RNTBC (BNTAC) Vice Chair Slim Parker said Traditional Owners have once again been left feeling let down and disrespected by Western Australia's State Government.

Mr Parker and BNTAC are pleading with the State to halt rushing the *Aboriginal Cultural Heritage Bill 2021* (the Bill) through parliament, to talk to Traditional Owners and to take this window of opportunity to unite Western Australia.

While questioning the tactic chosen by the WA Labor Party to push the Bill through, Mr Parker is also unsurprised. He said leaving Traditional Owners and others affected by legislation completely in the dark is trademark of the entrenched systemic racism that still exists in Australia.

"On behalf of Traditional Owners across WA, I ask you Premier Mark McGowan and the Minister for Aboriginal Affairs Stephen Dawson to please publicly announce the reason you have, in 2021, imposed upon us the management of 'Our' cultural heritage. Why are you doing this to us?" Mr Parker said.

"It is a breach of trust and respect to not allow us time to review and understand a bill that still appears to be an approvals process to enable development," Mr Parker said.

"Premier, you know very well you developed the Bill without giving due regard and respect to the people who will personally be affected. This has happened through a lack of communication and consultation with our cultural decision makers, our Elders.

"Instead, we have a Minister who does not appear to be representing us in the government, instead he is representing the State and industry. It has been this way since colonisation, Aboriginal people have been controlled through legislation and the systems of government which have in-built systemic racism. This Bill is yet another example of this.

"It is the Minister, or people selected by the Minister, who have the final say as to whether our heritage will be destroyed. It is the Minister who decides who will sit on the Aboriginal Cultural Heritage Council. Nothing changes with this legislation – we continue to be controlled by government.

"This Act should be of concern to all Western Australians, industry, investors, employees on projects, and employers. Why? Because people's "license to operate" on country is put at risk by this Act prohibiting Traditional Owners from having free consent."

Mr Parker said Traditional Owners want to work with the Government and industry to address the issues with the Bill to give assurance to all for the future.

“Let’s work together to solve those problematic areas in the current Bill, which haunts us now and will do forever if the Government continues on its current path. We have a great opportunity to unite this country and not divide it even more,” he said.

In addition, the burden placed on Prescribed Bodies Corporate (PBC) through the establishment of local Aboriginal cultural heritage services (LACHS) will be significant. PBCs need clarity on fees, funding and support to carry out these requirements. In its present form there is no clarity for either PBCs or mining companies on such costs, or timeframes to complete works.

The Bill also ignores the recommendations of the final report from the *Inquiry into the destruction of 46,000-year-old caves at the Juukan Gorge in the Pilbara region of Western Australia*. A few recommendations included: the codesign of legislation; to uphold the United Nations Declaration on the Rights of Indigenous Peoples principles of free, prior and informed consent; and to have the ability to withhold consent.

Many more unknowns remain with regulations to guide how the Bill will operate yet to be written. These regulations will not be legislated, and therefore are open to interpretation and amendments. This has been a major failing of the operation of the *Aboriginal Heritage Act 1972*.

“Despite being dominated and controlled by racist and discriminatory policy and legislation, many of us have had the very good fortune to have adapted academically through schools and universities. Combine this with our cultural knowledge, we are the best placed people to inform this legislation on paper and in practice,” Mr Parker said.

“We are not against mining and development, as these provide opportunities for employment and the ability to look after our communities and our culture. But we need the ability to have a say.”

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About BNTAC

Incorporated in 2013 and with offices in Perth and Tom Price, [Banjima Native Title Aboriginal Corporation RNTBC](#) (BNTAC) is the Registered Native Title Body Corporate for the Banjima People.