

**Mr BURGOYNE (Lands, Planning and Environment)(in reply):** Madam Speaker, I thank honourable members for their contributions to this debate.

As we have discussed this evening, the purpose of this Bill is to amend the Sacred Sites Act and the regulations to ensure that they are contemporary and remain effective in achieving their purpose. Three key amendments which we have discussed in detail include:

- the formalisation of the existing composition of the members of the Aboriginal Areas Protection Authority board, which will ensure continued strong representation of traditional owners, along with additional expertise in development and governance. The existing practice includes 10 Aboriginal members nominated by land councils and two additional members nominated by the minister.
- the transfer and adding of parties to authority certificates, which allows for existing certificates to be transferred or have additional parties added as long as the proposed work and use of the land are the same, and all existing conditions in protecting the sacred sites remain unchanged.
- the enforceable undertakings, which will provide a useful tool for the authority to continue to ensure rigorous protection of sacred sites in the NT and increased powers to ensure remediation occurs where there are any issues.

The Aboriginal Land Rights Act requires that laws concerning sacred sites must provide a mechanism which takes into account the wishes of Aboriginal people in determining the extent to which those sites are protected.

With regard to the transferring of authority certificates, this process is administrative in nature and all protective conditions imposed at the time of issuing the original certificate will carry over to the new party, or as new names are added, ensuring the continuing protection of sacred sites. This new provision is consistent with the requirements of the Commonwealth's Aboriginal Land Rights Act, as it does not seek to change any of the protections initially imposed, which would have considered the wishes of the relevant custodians for the extent to which sacred sites are protected in respect of the same work and use.

There is no proposal or intent to change the way any sacred site is protected. Where there is a change to the works or proposed use of land, or a proponent seeks to change the protective conditions that had been imposed, this administrative transfer would not be available, and the proponent must apply for a new authority certificate.

Similarly, with long-term large-scale development projects involving multiple entities, the amendments will allow the holder of an existing authority certificate to apply for additional individuals or groups to be listed as recorded parties. Currently, each entity must go through the process to obtain a certificate, even if it is for the same area of land and the same works. The amendments simply allow for continuity of approved work where there is no change to the nature or location of the work or the use of the land.

Most importantly, the provisions do not permit new types of work or altered activity without further assessment and, where necessary, renewed consultation with custodians, which many have spoken about this evening. The suggestion that this prioritises economic development over cultural authority is unfounded. This approach is consistent with the principles of both the Sacred Sites Act and the Commonwealth Aboriginal Land Rights Act, which aim to protect Aboriginal cultural heritage while enabling responsible land use.

The implementation of an enforceable undertaking regime will introduce a fair and constructive approach to compliance, allowing for negotiated outcomes for minor breaches rather than immediate prosecution; something the AAPA board has called for. The Bill does not reframe or diminish the authority's core role of protecting sacred sites. It maintains the authority's fundamental responsibility to ensure that any proposed use of land does not pose a risk to sacred sites, the custodians are consulted and their knowledge respected before a certificate is issued. These changes are designed to empower the authority but also to encourage greater collaboration between proponents and the authority by creating opportunities to resolve issues with respect to sacred sites.

It has been more than 30 years since the Act was substantially updated, during which time there have been considerable economic, political and social developments in the Territory. I had a number of conversations with industry stakeholders, who raised the issue of certificate cost and the inability to transfer, as well as the resulting inefficiencies that stem from those issues.

We want proponents to get their certificate. We want them to look at their certificate like it is that golden ticket; something they must work hard to obtain and comply with. That is why this Bill is aimed at reducing process duplication. It is providing much needed and long overdue clarity around fees and enforcement, which will be addressed through changes to the regulations.

The Territory has some of the strongest sacred site protections in Australia, mentioned by those opposite today, and there is no intention to change that. These amendments have been in discussion for some time and are necessary to improve the process for everyone involved.

Consultation has been spoken about at length this evening. In addition to the extensive consultation with traditional owners, industry stakeholders and government agencies as part of the comprehensive 2016 review, I engaged in a face-to-face meeting with the board of the authority where I gave notice that I intended to make amendments to the Act ...

**Ms Uibo:** What about the 2024 work?

**Mr Edgington:** You had your turn to speak, why do you not give him a chance?

**Madam SPEAKER:** Silence, please! Come on.

**Mr BURGOYNE:** I had face-to-face and videoconference meetings with executive members of the four land councils on Thursday 20 March 2025 and a face-to-face meeting with the full Central Land Council at Yulara on Thursday 10 April 2025, where I answered more than 30 questions from councillors over a one-hour period in regard to the Legislative Scrutiny Committee report.

It is important to acknowledge the work that has been done. This government appreciates the careful work of the scrutiny committee report. I thank each of the members for their work in consideration of this Bill, as well as each member or organisation in our community that made submissions. The government notes the advice obtained by the committee from the independent legal adviser, Mr Ned Aughterson, which confirmed that the amendments were not, in fact, contrary to the *Aboriginal Land Rights (Northern Territory) Act*, commonly known as ALRA.

The report stated on page 18:

*As noted in the Explanatory Statement, Professor Aughterson agreed that, in his view, proposed sections 24A and 24B are not inconsistent with the ALRA or section 42 of the Act ...*

That being the transfer provisions.

I will now go through the recommendations that the committee put forward. Recommendation 1 is:

*The Committee recommends that the Legislative Assembly pass the Northern Territory Aboriginal Sacred Sites Legislation Amendment Bill 2025 with the proposed amendments set out in recommendations 2–4.*

This government accepts that recommendation in part. The government proposes to pass the Bill, but without change. Careful consideration was given to each of the recommendations in consultation with the authority and the basis for this decision is as follows. Recommendation 2 states:

*The Committee recommends that proposed section 6 be amended to include criteria or matters the Minister should take into account when nominating members of the Aboriginal Areas Protection Authority.*

It is considered that legislative amendment is not required for this, as this matter can be worked through between the minister and the authority operationally, as has been done in the past. I highlight the reason for the change in this Act is that the process for the minister to appoint and terminate, if needed, ministerial appointments is not explicitly laid out currently in the Act.

Recommendation 3 is:

*The Committee recommends that, to ensure the integrity of the original Authority Certificate is retained, consideration be given to amending the Bill to provide that the substance of the Authority Certificate is separated from the identity of the holders of the Certificate, such that the Certificate contains the*

*substance of the given authority, including any conditions, with an addendum that identifies the holders of the Certificate.*

Again, this is an operational matter for the authority, and legislative amendment is not required. As an administrative change this is not necessary to be legislated. It would also be an administrative burden for the authority by requiring an additional register to record the authority certificate holders. I spoke to the authority about how this could work and this is the advice I was given.

Recommendation 4 is:

*The Committee recommends that, if not covered by an existing process, proposed sections 24A and 24B be amended to require that the Authority must notify custodians of any Authority Certificate transfers and the name/s of the holder/s of the Certificate.*

Once again, I consulted the authority on this. Notifying custodians of any authority certificate transfer and the names of the holders on the certificate is another operational matter that the authority is already working through, so it does not require legislative amendments.

I will acknowledge some of the comments made by honourable members in response to this Bill. I thank the Members for Arafura, Mulka, Gwoja and Daly, the Opposition Leader and the Member for Johnston for their contributions.

Meaningful consultation was raised by all members this evening. During the consultation undertaken for this Bill, we met with the board and land councils. I was invited in writing by the Central Land Council to attend their meeting, and I thank the Central Land Council for writing to me in my capacity as a minister. I went out of my way to ensure I could make that meeting at Yulara. Government drove there, and we listened to what everyone had to say. Once again, these are the representatives of their regions. They were passionate in the words they spoke, and I was able to outline our governments reasons for why we are putting forward this Bill. I thought it was a productive meeting, which I am thankful for to explain why we are making these amendments.

Members opposite spoke about 'weakening' sacred sites laws, and that is incorrect. The Bill is to strengthen sacred sites. Sacred sites need to be known about and protected; by ensuring there is an ability for people to transfer authority certificates, more people will ensure they have an AAPA certificate and that they know where the sacred sites are and that they can be protected. It was mentioned by the Member for Arafura that if a knowledge holder from 1993 passes away, their protections might be lost. I highlight the whole reason the ability to transfer ensures the knowledge from that knowledge holder is held in perpetuity. That certificate, that knowledge and story that was told in that certificate as it was originally laid out will be held in perpetuity for all time as it is transferred.

Enforceable undertakings were mentioned by several people, which there was a lot of confusion with. The Member for Gwoja spoke about enforceable undertakings having been something he had worked to draft, but I am unsure whether he supported this. There was talk of a \$160,000 fine and that penalties needed to be increased, yet through two terms of Labor government there was nothing done. There was talk from the Member for Gwoja that it was good legislation regarding enforceable undertakings.

The reason why enforceable undertakings have been brought in is at the request of the authority. Currently there are blunt tools for recompense for traditional owners who feel there have been breaches such as exclusion zones entered into, desecration of or damage to sacred sites. It was mentioned several times today that some members felt that \$160,000 in recent decisions made by the courts was insufficient. Enforceable undertakings will mean that authority in conjunction with traditional owners will be able to go to an entity and if they can come to an agreement on the relevant compensation and works that need to be paid to ensure that traditional owners are satisfied. If at the end of an enforceable undertaking process someone is still not happy with what has been agreed to, legal proceedings can take place. It is an important process to talk through.

The Member for Gwoja during his speech mentioned the money that will go to TOs, and this is something people may not understand. When AAPA takes legal action against an entity and the legal action is successful, the money goes to the entity taking that legal action. That is what I have been advised. It is something TOs raised with me. The enforceable undertaking regime—if there is an agreement put in place between traditional owners and a proponent, there is the ability for traditional owners to be able to receive compensation as a result. That is something many people have overlooked.

There were many other comments made throughout this evening. It is important we also note many people spoke about the scrutiny committee being a farce. Once again, it is a process for people to have their voices heard, as is this debate. It is an opportunity to hear from those opposite their concerns. It is their job to get out and consult with their communities and, by the sounds of it, some have and some believe they have not had the ability or time to do so.

It is important to mention—this is something that people who are new to this Chamber perhaps will not understand—that in the past in regard to legislation and debates in this Chamber the Country Liberal Party in opposition was silenced. There were motions to move that the question be put and very little ability for us to speak on many debates, which was extraordinarily frustrating.

This evening I have genuinely sat through everyone's contributions and listened to them all because it is important legislation. Everyone acknowledges that. We may differ in our opinions on the ability for this to strengthen the Sacred Sites Act. It is genuinely our consideration that by doing this it will mean more people get an AAPA certificate, which is what I want. It frustrates me when we chat to people out in the regions and they say that it is too difficult to get an AAPA certificate because the process is too costly, it takes too much time and, at the end of the day, we have no idea.

This government is trying to ensure that a proponent seeking to purchase new land or seeking to come to a new site and continue with the exact same work that has been conducted will be able to have that certificate transferred to them, understand explicitly where those sacred sites are and the provisions that are held in that AAPA certificate and comply with them.

Agreeing to this Bill provides for long overdue modernisation of this legislation to bring it in line with contemporary expectations for both sacred site protection and development. It is a step towards clearer, more efficient processes in the Northern Territory.

I acknowledge all officers who contributed to this Bill, including those from the Aboriginal Areas Protection Authority, the Department of the Chief Minister and Cabinet and the Department of Lands, Planning and Environment.

I commend this Bill to the Assembly.

Motion agreed to; Bill read a second time.