

Submission on Bills

NORTHERN TERRITORY ABORIGINAL SACRED SITES LEGISLATION AMENDMENT BILL 2025 SERIAL NO. 23

LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

MINISTER FOR LANDS, PLANNING AND ENVIRONMENT

Introduction

I am not a person of Aboriginal heritage or affiliated to any Aboriginal group or organisation. I do not speak on behalf of anyone but myself. I am simply a citizen of the Northern Territory who is acutely aware of the privilege we have in the NT to be engaged with the oldest living culture on the planet. I am also acutely aware of how much of that culture, of customary law and lore, has been lost or damaged beyond repair since the arrival of Europeans (myself included). And thus of **our moral obligation** to help preserve what remains, to make amends, to do the work of healing, restoration and renewal, and to honour the holders of a body of knowledge and culture of such complexity, beauty, and antiquity, that our minds cannot even begin to grasp it.

- 1. Timeframe impossible for appropriate stakeholder response.** The Call for Submissions was released on Thursday 27 March with a deadline of Friday 4 April 2025. For a layperson like myself with neither legal nor anthropological qualifications, that is impossible to do thoughtfully, thoroughly, and responsibly. **One week** to read the Act, to read the Bill and the Explanatory Statement, to research the issues, and review legislation from other jurisdictions in order to identify best practice in relation to these matters. And I'm a white, middle class, mainstream Australian with a tertiary education. The Bill has progressed with no consultation, based on a review undertaken in 2016 (almost ten years ago), with one week to make submissions. It is self-evident that such a timeframe is designed to make it impossible for the vast majority of Aboriginal stakeholders to even hear about the Bill, let alone respond appropriately.
- 2. Timeframe cannot be justified in relation to urgency.** There is no logical reason why this Bill requires attention in the May 2025 sittings. If the Minister truly desires to make the process more *accessible* and *efficient*, there should be proper consultation with the Territorians most likely to be affected and for whom the importance of this issue cannot be underestimated.
- 3. Two members of the Authority are to be appointed by the Minister 6(2A).** It is neither necessary nor appropriate for the Minister to appoint two members to the Aboriginal Areas Protection Authority, which is already subject to the direction of the Minister 5(5). Such appointees would serve only to inhibit or impede the full and confident participation of Authority members who would feel themselves to be the subject of indirect Ministerial scrutiny. Especially because matters of a secret nature in relation to customary law and ceremony may need to be discussed (see s 38), it would be inappropriate for Ministerial appointees to be present.
- 4. Minister's discretion termination of appointment 7(3A) and (3B).** Unnecessary if 6(2A) is not inserted.

- 5. Transfer of Certificate 24A, and Recorded parties for Certificates 24B.** Sacred Sites, as the name implies, are sites of profound significance for the mental, physical, emotional, spiritual and social wellbeing of the Traditional Owners and for the other occupants of the land. They are also crucial for the flourishing of the Land itself, and for the cosmology of which it is a vital part. In some respects, desecration, contamination or violation of a sacred site is irreparable and cannot be fully remediated in the same way that some environmental contaminations can be (which is not to say that what remediation is possible should be neglected). Custodians hold a sacred trust whose importance cannot be overestimated. **They must be consulted** about any change to the Authority Certificates. It is not just about how the land is used, but also **by whom**; that the holders of an Authority Certificate are aligned in values and priorities and can be trusted to honour the Authority with care and integrity. The destruction at Juukan Gorge by Rio Tinto in 2020 highlights the absolute necessity for close consultation and cooperation between traditional owners and those who are granted the privilege of access to the site. Government legislation, policies and procedures should be designed to enhance that relationship, not attenuate it.
- 6. Enforceable undertaking 39B, C, D, E, F, and G.** These are welcome, especially if they are rigorously enforced. However **39H** is unacceptable for the reasons outlined in paragraph 5. It needs to be made very clear that desecration of a sacred site is a crime as well as a harm. Whatever actions may be useful to attempt to repair the harm done, **an act of desecration has taken place** and must attract a penalty of appropriate gravity. No-one should be under the impression that desecrating a sacred site is an issue of minor importance which can be fixed by ‘tidying up’ afterwards. Modern secular democracies like Australia have largely lost an understanding of the immutability of the sacred, but this is an aspect of the lifeworld of many Aboriginal people which is of supreme importance, not just to individuals, but to all the people and to the Land itself.
- 7. Transparency and Accountability.** I strongly urge the NT government to:
- adopt whatever measures are necessary to inform stakeholders of every aspect of the process of amending the legislation, and its subsequent operation
 - as soon as that information becomes available
 - in language that is readily accessible to people for whom English is not their first language, and also in their own languages
 - with plenty of time for consultation, including face-to-face discussions as well as written documents
 - demonstrate good faith by responding publicly to all stakeholder concerns and incorporate their feedback into the legislation
 - ensure ongoing monitoring, evaluation and public reporting by independent experts, especially in relation to enforceable undertakings.

In this way we may indeed make the process more accessible, efficient and protective of sacred sites – and worthy of the people and cultures to whom they are sacred.