

Submission to the Scrutineer Committee:

Opposition to the NT Aboriginal Sacred Sites Act 1989.

Dear Members of the Scrutineer Committee,

I am writing to express **Strong Opposition** to the proposed Sacred Sites Amendment Bill. While the intention of the Bill may be to streamline the process for developers and improve certain regulatory measures, it raises significant concerns regarding the protection of sacred sites, Aboriginal rights, and the overall integrity of the Aboriginal Areas Protection Authority (AAPA).

1. Enforceable Undertakings and Accountability

The inclusion of provisions allowing the AAPA to enter into ‘enforceable undertakings’ with individuals or companies who have breached the Act or a condition of an Authority Certificate presents a fundamental issue: it undermines the deterrent effect of criminal and civil penalties. While enforceable undertakings may be suitable for minor violations, they are ill-suited for serious breaches where sacred sites are harmed. The Bill prevents criminal proceedings from being initiated while an undertaking is in force, even in cases of significant damage. This provision risks eroding public trust, as it appears to prioritize expedient remediation over holding violators accountable for serious harm to sacred sites. Effective deterrence is a cornerstone of meaningful protection, and the potential for reduced accountability under this amendment undermines this principle.

2. Transfer of Authority Certificates Without Consultation

The Bill introduces the option to transfer Authority Certificates between parties without requiring consultation with Traditional Owners or custodians of the land. While it may reduce administrative burden for developers, this amendment neglects the importance of Aboriginal involvement in decisions affecting their sacred sites. The failure to consult Traditional Owners in the transfer process disregards their ongoing connection to and responsibility for the land. Sacred sites are not mere legal assets; they are part of a cultural, spiritual, and ancestral heritage. The exclusion of Aboriginal voices from such processes is a serious flaw in this Bill, potentially eroding the rights and protections of those whose culture and history are directly tied to the land.

3. Ministerial Power to Terminate AAPA Board Members

The Bill’s proposal to formalize the Minister’s power to nominate two members of the AAPA Board and grant the Minister the discretion to terminate these appointments at any time raises serious concerns about political interference in what should be an independent body. This amendment broadens the Minister’s power over the AAPA’s leadership, potentially compromising its ability to make decisions free from political influence. While Aboriginal members nominated by Land Councils can only be removed on specific grounds, the Bill gives disproportionate control to the Minister over the remaining Board members. This could undermine the integrity and independence of the AAPA, which plays a crucial role in safeguarding sacred sites.

4. Lack of Genuine Consultation with Aboriginal Stakeholders

The rushed nature of the Bill’s introduction to Parliament raises significant concerns about

the level of consultation and engagement with Aboriginal stakeholders. Land Councils were notified of the Bill only one week before its introduction, and no draft was provided for review. The absence of meaningful consultation with those most affected by these changes, particularly Aboriginal communities, reflects a lack of respect for their role in protecting sacred sites. Both AAPA and the Land Councils have long supported the modernization of sacred sites legislation, but the limited nature of this Bill and the failure to incorporate Aboriginal input raises serious questions about the government's commitment to genuine consultation.

Conclusion

In conclusion, the proposed amendments in the Sacred Sites Amendment Bill fail to adequately protect sacred sites and undermine Aboriginal rights. The Bill's provisions regarding enforceable undertakings, the transfer of Authority Certificates without consultation, expanded ministerial powers over the AAPA Board, and the lack of genuine consultation with Aboriginal communities all represent significant regressions in the protection of sacred sites. I strongly urge the Committee to reconsider these amendments and ensure that future legislation prioritizes the preservation of Aboriginal cultural heritage and the rights of Traditional Owners.

Thank you for your consideration.

Sincerely,

Clare Merritt

Concerned NT Citizen

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