



LEGISLATIVE SCRUTINY COMMITTEE
CARE OF JULIA KNIGHT, COMMITTEE SECRETARY

BY EMAIL ONLY: LA.COMMITTEES@NT.GOV.AU, JULIA.KNIGHT@NT.GOV.AU

17 April 2025

Dear Committee Members

Legislative Scrutiny Committee Inquiry into the *Northern Territory Aboriginal Sacred Sites Legislation Amendment Bill 2025*

Addendum to Central Land Council submission re commitments made by Minister Burgoyne to Central Land Council meeting on 10 April 2025

I write to bring your attention to commitments made by Minister Burgoyne to the Central Land Council about the *Northern Territory Aboriginal Sacred Sites Legislation Amendment Bill 2025* during the Minister's presentation to the meeting of Council delegates at Yulara on 10 April 2025.

Minister Burgoyne listened to delegates speak from their hearts about the importance of their sacred sites to them. Delegates asked that the government talk to them and not make any changes to the *Northern Territory Aboriginal Sacred Sites Act* without proper consultation and without their consent. Delegates reiterated that sacred sites belong to Aboriginal people, not to the government.

Minister Burgoyne said he wanted to make the Act stronger. He heard from delegates that they too wanted a stronger Act, but that the changes in the Bill did not do that and would not help Aboriginal people to protect their sacred sites.

Minister Burgoyne made four commitments to Council members:

1. He said repeatedly that Authority Certificates could only be transferred for "*the exact same work*".
2. He said that traditional owners would be the ones who decided if a company would be able to give an enforceable undertaking.
3. He said that he would investigate a way for traditional owners to receive compensation under the Act if a sacred site is damaged, rather than a fine just being paid to the Territory.
4. He agreed to "*keep talking*" after the Council meeting.

None of those commitments is reflected in the Bill.

1. "Exact same work"

Under the Bill, Certificates can be transferred "*in respect of the same land and work **or use of land** that were the subject of the existing Certificate*" (see proposed section 24A(4)(a)). The words "*or use of land*" introduce vagary that means the scope of work permitted under a transferred Certificate could be vastly different from what traditional owners were consulted about.

For example, the original Certificate may have been granted for the purpose of mining by a small scale or artisanal operator doing little more than prospecting on land. Under the current drafting of the Bill, such a Certificate could be transferred to an international mining company for an open cut mine

and tailings dump. The “*use of land*” for mining would be the same, but the impact on sacred sites and country would be very different. The nature and content of consultations, and the conditions imposed by traditional owners, would be significantly different in both scenarios. Traditional owners giving informed consent to the former scenario, and formulating conditions appropriate to it, does not mean that they have also given informed consent to the latter or that the conditions on the original Certificate would be appropriate.

Further, Certificates do not always specify a precise scope of work. While conditions may be tailored to a scope, that may not be apparent from the face of the Certificate. Further, the tailored conditions may not be appropriate for a different scope of work. This means that the Authority needs to be given the power to clarify:

- what the permitted scope of work is;
- that it is “*the exact same work*” allowed under the original Certificate; and
- how the conditions on the Certificate are tailored to that scope.

Proposed section 24A(4)(b) needs to be amended to allow that to occur.

While the preceding paragraphs address the commitments given by the Minister on 10 April 2025, the Central Land Council considers that no Certificate should be transferred without:

- consultation with traditional owners by the Authority;
- informed consent by traditional owners prior to any transfer; and
- the Authority making any amendments to the conditions of an original Certificate that it considers are needed to reflect traditional owners’ consent.

2. Enforceable undertakings

Proposed section 39C(2) of the Act, contained in clause 9 of the Bill, sets out considerations for the Authority to take into account before deciding whether to accept an enforceable undertaking. It does not include the wishes of traditional owners, save in the catch-all “*any other factor that the Authority considers relevant*”. It is critical that the views and wishes of traditional owners are the primary consideration for the Authority’s decision about whether to accept an undertaking.

Insertion of that as the primary mandatory consideration would reflect the commitment given by Minister Burgoyne to Council on 10 April 2025 that traditional owners would be the ones who decide if a company would be allowed to give an enforceable undertaking.

3. Compensation

Neither the Act nor the Bill contains an explicit mechanism for traditional owners whose sacred site is damaged to receive compensation for that damage. Any fine paid following successful prosecution is paid to the Territory.

Minister Burgoyne’s commitment to investigate a way for traditional owners to receive compensation should be undertaken, and amendments incorporated into the Bill, before it is further considered by Parliament.

4. “Keep talking”

Minister Burgoyne’s final commitment to “*keep talking*” was welcomed with relief by Council delegates. It necessarily requires further consultation with them, and other Aboriginal Territorians, prior to the Bill being further considered by Parliament.

The Central Land Council's delegates emphasised the importance of this consultation in the resolution they passed after hearing from Minister Burgoyne. They resolved:

The Central Land Council calls on Minister Josh Burgoyne to demonstrate respect for Aboriginal people and due process by stopping the Sacred Sites Legislation Amendment Bill until proper consultation has been done. The combined land councils have spoken up for many years about the need to strengthen the Act, including by recognising the sacred sites processes of land councils. Instead the government is fast tracking amendments that please land users and developers without consulting Aboriginal Territorians, despite the enormous significance sacred sites protection has for us. Sacred sites belong to Aboriginal people, not the Government, and the government should not change the law protecting our sites without consulting us. Achieving lasting and successful legislative and policy outcomes in the Territory can't be done by cutting corners at the expense of Aboriginal people. We strongly urge you to halt the bill and co-design a consultation process with Land Councils to ensure the views and aspirations of Aboriginal traditional owners and kurdungurlu are taken into account, including amendments that are important to us.

Conclusion

In addition to the submissions made on 4 April 2025, the Central Land Council urges the Legislative Scrutiny Committee to include in its recommendations at least these four commitments made by Minister Burgoyne to delegates on 10 April 2025.

Finally, I **enclose** copies of:

- the letter sent today by Central Land Council Chair Warren Williams to Minister Burgoyne about his commitments; and
- the media release issued following Minister Burgoyne's attendance at the Council meeting.

I ask that you treat this letter as an addendum to the Central Land Council's submission dated 4 April 2025 and that you also publish it on the Committee website.

Yours sincerely



Kate O'Brien
PRINCIPAL LEGAL OFFICER

Enclosures:

- Letter dated 17 April 2025 from CLC Chair to Minister Burgoyne
- Media release dated 10 April 2025



The Hon. Joshua Burgoyne
Minister for Lands, Planning and Environment
c/-Parliament House
Darwin, NT 0800

17 April 2025

SUBJECT: Northern Territory Aboriginal Sacred Sites Act Amendment Bill

Dear Minister Burgoyne

On behalf of the Central Land Council and its delegates, I am writing to thank you for coming and speaking with us about your Government's plans to change the Northern Territory Aboriginal **Sacred Sites Act**.

When you spoke to the Council you talked about wanting to strengthen the Sacred Sites Act. We want to strengthen the Act as well, but we have big concerns about the changes you are making. They will not help to protect our sacred sites. To truly make the Sacred Sites Act stronger you need to sit down and talk with us properly, not just at the last minute.

You told us many times that transfers of Authority Certificates will only be allowed for "the exact same work" as the previous certificate. You also said that traditional owners will be the ones to decide about enforceable undertakings. You also said that you would look into a way for traditional owners to get compensation if a site is damaged, instead of that fine going to the government.

Your Bill does not say any of those things. If you are a man of your word you will make sure that your Bill is true to what you told the Council.

Our Council passed this resolution after we spoke with you, and I ask you to think about what we have said.

Council Meeting

Resolution No: CM 2025.01.07

Date: Thursday 10th April 2025

Location: Yulara

Subject: Sacred Sites Legislation Amendment Bill

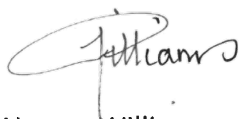
The Central Land Council calls on Minister Josh Burgoyne to demonstrate respect for Aboriginal people and due process by stopping the Sacred Sites Legislation Amendment Bill until proper consultation has been done. The combined land councils have spoken up for many years about the need to strengthen the Act, including by recognising the sacred sites processes of land councils. Instead the government is fast tracking amendments that please land users and developers without consulting Aboriginal Territorians, despite the enormous significance sacred sites protection has for us. Sacred sites belong to Aboriginal people, not the Government, and the government should not change the law protecting our sites without consulting us. Achieving lasting and successful legislative and policy outcomes in the Territory can't be done by cutting corners at the expense of Aboriginal people. We strongly urge you to halt the bill and co-design a consultation process with Land Councils to ensure the views and aspirations of Aboriginal traditional owners and kurdungurlu are taken into account, including amendments that are important to us.

MOVED: Douglas Multa
SECONDED: Sharon Anderson

REGION: 5
REGION: 3

You heard our delegates speak from the heart about how important sacred sites are to our people. At the Council meeting you agreed to "keep talking". In that spirit we are asking you to sit down at the table with us to make real improvements to the Sacred Sites Act that will protect sacred sites and make the laws work better for everyone.

Yours sincerely



Warren Williams

CHAIR OF THE CENTRAL LAND COUNCIL



Bin your bill until you have consulted with us about our sacred sites

The Central Land Council calls on the Northern Territory Government to respect Aboriginal people and due process by stopping the Sacred Sites Legislation Amendment Bill pending proper consultation with traditional owners.

It also asked Minister Josh Burgoyne to confirm during this consultation process some promises he made during his discussion with the council today.

“We strongly urge you to bin this bill and co-design a consultation process with the land councils so you can take into account the views of Aboriginal traditional owners and reflect the commitments you made today,” CLC chair Warren Williams said.

Mr Burgoyne told CLC delegates that traditional owners will decide whether there will be an ‘enforceable undertaking’ or a prosecution where a site has been damaged and that sacred site clearance certificates will only be transferred from one developer to another if the scope of a project is exactly the same as in the original certificate.

The proposed bill does not include these commitments.

The minister also agreed to “keep talking”. The delegates welcomed this and resolved to hold him to his commitments.

They told him that the NT land councils have long advocated for the recognition of their sacred sites processes and how to strengthen the Territory’s sacred sites law.

“The Country Liberal Party’s fast tracked amendments are designed to please land users and developers, but sideline us completely,” Mr Williams said.

“We are outraged because our sacred sites mean the world to us, and it’s our duty to protect them and not just take the government’s word on trust.

“Our sites belong to us, not the government, and it should not change the law protecting our sites without our informed consent.”

CLC processes and approvals guarantee to developers that the right people have been consulted and that approved projects won’t land them in court.

A co-designed bill would streamline the process by recognising land council sacred site clearance certificates that traditional owners and proponents often prefer because they provide certainty and save costs.

Mr Williams said the Territory will not be able to deliver certainty to developers or achieve lasting positive legislative and policy outcomes by cutting corners at the expense of Aboriginal people.

“Despite the unholy rush of the government we have made a [submission](#) that builds on our earlier submissions and includes the amendments to the bill that are important to us.”

10 April 2025