

## Matthew z Wilkinson

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**From:** Shaun Davies [REDACTED]  
**Sent:** Thursday, 25 July 2019 6:28 PM  
**To:** CHA\_Review  
**Subject:** Cultural Heritage Submission - Shaun Davies

Jingeri,

I am a Yugambeh/Ugarapul man, and I am submitting my thoughts on the Cultural Heritage Act, I have two main points:

### 1. Native Title Parties with negative determinations

I believe the Act is failing to operate as intended, particularly in regards to Native Title parties with negative determinations. The act fails to distinguish between what I believe are two subsets of Native Title Parties with negative determinations:

- a. Negative determinations due to loss of ongoing connection
- b. Negative determinations due to 'wrong people for country'

My point is mainly regarding the second group who, having been proven in the courts to not even be the Traditional Owners of that land, continue to be designated Cultural Heritage Bodies for cultural heritage that is not even theirs. I believe this is a gross violation of Indigenous Nations rights, and continuing to allow these people to deal with Cultural Heritage that is not theirs is a gross miscarriage of justice and causes an extreme detriment to the real Traditional Owners.

Recommendation: Native Title parties with negative determinations due to 'wrong people for country' scenarios should be stripped of their Cultural Heritage Body status and DATSIP should engage with the other Aboriginal Parties to identify the appropriate group to replace them.

### 2. Obligations to deal with the registered Native Title Party / Cultural Heritage Body

I believe the Act is failing to properly assure the appropriate care for Aboriginal Cultural Heritage due to its 'duty of care' clauses, which many developers use to ignore Aboriginal groups, immediately deferring to 'duty of care' arrangements.

Recommendation: The Act should be rewritten so that land developers have an obligation to engage with NTPs and CHBs first and foremost, and only if they can prove to the Minister that the group is unwilling to engage can they then request to be allowed to fall back to 'duty of care' arrangements.

Nyanyahbu  
S.T Davies

