

Submission on Finalising the review of Queensland's Cultural Heritage Acts

The Redlands Branch of the National Trust shares the mission of the National Trust of Australia (Queensland) which is to protect, conserve and celebrate our environmental, built and cultural heritage. We believe that environmental, built and cultural heritage each makes a vital contribution to our community and economy.

Locally the Branch aims to help develop a cohesive community through a deep understanding of the unique place and identity formed by our environmental, built and cultural heritage. As a branch we are part of Queensland's leading community heritage organisation. The Trust is a not-for-profit organisation and member-based charity which offers people the opportunity to feel connected to significant places, collections and stories. In that task the Trust advocates for the recognition and care of Queensland's heritage. It has more than 1,000 volunteers and employees state-wide who manage properties from Currumbin to Cooktown.

To put perspective to the Trust itself, it has some \$54M of heritage assets and nearly 18,000 members across the State. Before-Covid, it had over 542,000 visitors annually to its properties which made a unique contribution to local cultural tourism and partnership opportunities.

Options paper – Finalising the review of Queensland's Cultural Heritage Acts

Thank you for the opportunity to comment on the Options Paper in connection with finalising the review of Queensland's Cultural Heritage Acts. These remarks are provided on behalf of the Redlands Branch of the NTAQ. The Redlands Branch of the NTAQ shares the mission of the NTAQ which is to protect, conserve and celebrate our environmental, built and cultural heritage. It follows that we have a strong interest in the culture of Aboriginal and Torres Strait Islander peoples, a sentiment expressed by many who attended our last meeting held earlier this month on the lands of the Quandamooka people.

At the outset, the Redlands Branch of the NTAQ commends the Queensland Government's Statement of Commitment to reframe its relationship with Aboriginal and Torres Strait Islander peoples and applauds the steps it has taken in this regard. It is disappointing, however, that it has taken so long to reach the current position but more so that there is no clear timetable to bring the matter to a head. It is also disappointing that such an important initiative has not attracted greater interest and commitment judging from the state wide statistics on the "extensive consultation" undertaken.

Before turning to specific matters raised in the Options Paper, the Redlands Branch would offer this last, but important general comment. As rightly mentioned in the Paper, there have been instances of destruction of aboriginal heritage sites, notably most recently in Western Australia. It would be a mockery if any strengthening of Queensland's Cultural Heritage Acts

to guard against similar desecration here could be merely overridden by politicians resorting to arbitrarily declaring an area to be a Priority Development Area (PDA). It is generally understood that the Queensland PDA legislation has been used to bypass environmental and planning laws in the past and erase long standing rights of proximate land owners (include appeal rights0). Is it intended that the same situation would apply to any strengthening of Queensland's Cultural Heritage Acts?

Proposals to improve cultural heritage protection.

Proposal 1.

Obviously the current Duty of Care Guidelines are not working satisfactorily so Proposal 1 definitely has merit. The definition of "intangible cultural heritage" needs to be explicit so that all parties can understand its meaning and appreciate its importance. The proactive mapping of cultural areas is seen as vital so long as all parties involved are aware of the areas concerned. This would help future land users understand what could and couldn't be done in specific areas. In other words, what could be touched, avoided and/or negotiated. The definitions listed under this Proposal are seen as suitable for further discussion and development in consultation with stakeholders.

Most certainly a new assessment framework needs to be developed preferable by a First Nations advisory group with access to experts as required, with consultation protocols for each Aboriginal and Torres Strait Islander party.

Proposal 2.

This Proposal would not be necessary if the early engagement and proactive mapping approach was done as per Proposal 1. However, if Proposal 1 was not adopted, then Proposal 2 is a must. It is essential for parties to know what they face when dealing with cultural heritage and its protection. Mapping into land planning would help a great deal.

Proposal 3.

This Proposal is fully supported as inherent in the comments offered on Proposal 1. Intangible elements of cultural heritage must be made explicit and embedded in the Cultural Heritage Acts.

Proposal 4.

There definitely needs to be an independent mechanism to resolve and deal with issues - a mechanism that cannot be inappropriately influenced.

Proposal 5.

A mandatory compliance reporting system would benefit all land users and First Nations people in recording for future users what had been consulted on and agreed upon in the past.

Proposal 6.

The monitoring and enforcement of compliance absolutely needs to be strengthened. The "restorative justice principles allowing for rehabilitation and educational measures in parallel with pecuniary ones" need to strike the right balance between addressing minor infringements and blatant disregard of the law. In other words, sanctions need to be seen as a deterrent to even the most aggressive developer or corporation.

Proposal to reframe definitions.

The Redlands Branch of the NTAQ does not feel competent to offer any meaningful comment on either option under this Proposal other than to note an apparent inconsistency in the material provided at page 20 of the Options paper. The second paragraph states in part, "There are no changes proposed in areas where there is a registered native title holder

or a registered native title claimant.” Yet, under the third dot point of the paragraph headed, “Where would this option apply?” it is stated, “The green areas on the map opposite show areas of Queensland where there are previously registered native title claimants that are native title parties for an area. These previously registered native title claimants would not retain their native title party status under this option” (underlining inserted).

Proposals to promote leadership by First Nations people.

Proposal 1.

The establishment of a unique First Nations-led entity sits most comfortably with the Queensland Government’s Statement of Commitment. Perhaps there should be two separate entities to ensure that each First Nations group has appropriate representation. While each entity should have the range of functions envisaged by the Questions posed at page 28 of the Options paper, the entities should not be independent of the government.

Proposal 2.

This proposal is endorsed.

General observations

While the circumstances of this options paper being disrupted have been explained it is of concern to our members that such documents are released for public comment in a form that is very difficult for community and community organisations to respond. The option paper is not easy to read and there are some complex issues. Surely there is some capacity for the responsible agency to seek out lay stakeholders and make arrangements to provide plain English explanations of the Options. Alternatively make it clear that the proposals are not matters that the general public need be concerned with.

Regards

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