



Amy MacMahon MP
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31 March 2022

Cultural Heritage Review team
Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships
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Via email: CHA_Review@dssdsatsip.qld.gov.au

Reshaping Queensland's Cultural Heritage Laws

Dear Cultural Heritage Review team,

Thank you for conducting a review into Queensland's cultural heritage laws: the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*.

I am writing to present two case studies in why these laws urgently need fixing:

1. Magazine Hill in North West Queensland.
2. Deebing Creek, Ipswich.

Magazine Hill

This site at Magazine Hill is culturally significant to the Waanyi people, and has songlines running 1000km to the west to the Alyawarre people in the Northern Territory. The site is threatened by a zinc mine. It highlights the need for intangible cultural heritage to be appropriately covered by Queensland legislation and policy, among other concerning issues.

There is a cultural heritage management plan for the site, agreed to by the Waanyi Native Title Aboriginal Corporation (Waanyi PBC). However, many Waanyi people do not agree that the destruction of the hill, including an important rock shelter, that this plan permits should go ahead.

Waanyi elders appeared as witnesses in the federal government inquiry into the terrible destruction of Juukan Gorge in Western Australia, entitled the *Inquiry into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia*, and conducted by the Joint Standing Committee on Northern Australia.

In the report from that inquiry, the situation at Magazine Hill was named as a concerning case study in a lack of transparency in the operations of prescribed body corporates (PBCs).¹

Uncle Glen Willetts, a Waanyi and Alyawarr man, told the inquiry into Juukan Gorge:

'What we're saying is that when the agreement was first signed over 27 years ago, it was noted in that Gulf Communities Agreement that Magazine Hill will be preserved and protected from mining companies, regardless of which mining company comes in.

They said 'We've got the best engineers in the country. We can design the pit, extract the ore and still protect a significant site'. On that agreement, the mining company proceeded forward. The elders, the Waanyi people and all other people that had a stake in the business, the cultural side of it, were happy with that decision.

The companies started talking to them [the Waanyi PBC] and not the native title groups that were parties, signatories, to the Gulf Communities Agreement.'

Uncle Barry Dick, a Waanyi Elder, told the inquiry:

'When the PBC took over, it was just not operating properly with the native title holders. There were numerous calls [...] and they didn't cooperate with what we wanted to do up here.'

Waanyi Elder Clarence Walden explained that in holding meetings outside of Waanyi Country, the Waanyi Native Title Aboriginal Corporation were breaching cultural protocols and lore, and restricting Elders' ability to participate.

1

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Northern_Australia/CavesatJuukanGorge/Report

As Senator Lidia Thorpe sets out in her submission to the federal inquiry into the destruction of Juukan Gorge, 'this case study highlights the need for culturally appropriate, well-resourced and ongoing consultation processes to obtain free, prior and informed consent from traditional owners and native title owners in relation to activity proposals on country.'²

It also highlights the need for avenues to be available to the traditional owners to question the apparent consent provided by their PBC, the right to veto activity proposals, and the need for broader definitions and considerations, including intangible heritage, when assessing cultural heritage protection requirements.³

Deebing Creek

Since before being elected, I have been very concerned about proposed development by AV Jennings and Frasers Property at Deebing Creek in Ipswich. As an historic mission site, this site has huge cultural, historical and ecological importance to the local Yuggera Ugarapul people, and First Nations people across Queensland, as people from all over the state were brought there.

There have been multiple actions since the 1970 taken to confirm that this is a site of cultural heritage. The First Nations community has been really clear that the site proposed for development overlaps with culturally significant land. This includes a cemetery, broader grave sites, a bora ring, an historic bunya nut tree, and the broader mission site which is considered of cultural significance, alongside the nearby Purga mission.

The lack of pathways available under Queensland law for the community, and families who trace their ancestors there, to protect their own land is of great concern, and I submit this example of a key case study for your review.

Key principles

2

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Northern_Australia/CavesatJuukanGorge/Report/section?id=committees%2Freportjnt%2F024757%2F78151

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https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Northern_Australia/CavesatJuukanGorge/Report/section?id=committees%2Freportjnt%2F024757%2F78151

In conducting this review, I urge you to place the greatest weight on the voices of First Nations people. Further:

- The definition of 'prescribed activity' should be as broad as possible in order to catch all activities which require the input of traditional owners.
- Consultation should occur for all activities in high-risk areas, so there is no excluded activity.
- First Nations people should be supported with funding and other resources to manage increased consultation about cultural heritage protection.
- A First Nations advisory group should lead development of a new assessment framework.
- Cultural heritage mapping should be incorporated into planning processes for state and local governments so that risks to cultural heritage are identified and addressed in the early stages of project planning.
- The definition of significant area or object should be appropriately broad, to reflect the many ways this criterion can be met.
- The cultural heritage acts must cover intangible cultural heritage.

I wish you all the very best with the review, and am happy to discuss this with you at any time. Please do not hesitate to contact my office on 3724 9100 if you would like to discuss this matter in more detail.

Kind regards,



Amy MacMahon
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