

From: Graeme Samuel AC [REDACTED]

Sent: Tuesday, 22 February 2022 7:39 PM

Subject: Re: Finalising the review of Queensland's Cultural Heritage Acts – - Dr Sarra seeks your feedback

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I refer you to Chapter 2 of my Independent Review of the Commonwealth EPBC Act provided to government in October 2030. that chapter dealt with my observations and recommendations concerning Indigenous engagement and cultural heritage.

In particular, I'm pleased that your Options paper has proposed in Proposal 5 a matter that goes to the heart of my own Recommendations - *the option proposed for mandatory reporting is to prescribe a requirement for land users to document and register all agreements and consultation under the Cultural Heritage Acts.*

I consider that no matter what prescriptions are provided to mandate consultation, they are too often more honoured in the breach than in the observance. And the failure to observe, is generally not revealed until after the event - cultural heritage is ignored and in the worst of cases, irreparable damage occurs. Juukan Gorge is the glaring example of this phenomenon.

For that reason, I strongly advocated for transparency in dealings with indigenous consultation - full disclosure of details of consultation, the matters about which it took place, the persons consulted, their response and the proponent's response to that.

In other words as an integral element of assessing a development proposal, the proponent would need to properly consult with all relevant indigenous persons, with the transparency of all details of that consultation being on the public record and thus capable of verification by persons affected. Juukan Gorge could never have occurred if these requirements had been in place in WA. This would overcome the reaction described in the Options paper - *Traditional Owners: held a strong view that legislation/guidelines were a 'toothless tiger', with too much reliance on industry and government to 'do the right thing'*

I would be happy to discuss my views with whoever may be appropriate.

Cheers

Graeme

Professor Graeme Samuel AC

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