



NEW SOUTH WALES ABORIGINAL LAND COUNCIL

ABN 82 726 507 500

Australian Heritage Strategy Submissions
Heritage Branch
Department of the Environment
GPO Box 787
Canberra ACT 2601

Via email: AusHeritageStrategy@environment.gov.au

To the Australian Heritage Strategy Team,

RE: Draft Australian Heritage Strategy

The New South Wales Aboriginal Land Council (**NSWALC**) welcomes the opportunity to provide comment on the *Draft Australian Heritage Strategy* (**Draft Strategy**).

NSWALC is the peak body representing Aboriginal peoples in NSW and with over 20,000 members, is the largest Aboriginal member based organisation in Australia. Established under the *Aboriginal Land Rights Act 1983 (NSW)* (**ALRA**), NSWALC is an independent, self-funded non-government organisation that has an elected governing council and the objective of fostering the aspirations and improving the lives of the Aboriginal peoples of NSW.

NSWALC provides support to the network of 120 democratically elected Local Aboriginal Land Councils (**LALCs**) that exist in NSW. As elected bodies Aboriginal land councils represent not only the interests of their members, but of the wider Aboriginal community.

NSWALC provided comment on the Australian Heritage Strategy Consultation Paper released in 2012, highlighting that a new heritage strategy for Australia should provide for:

- Best practice consultation mechanisms with key Aboriginal peoples in relation to decisions about the protection and management of Aboriginal culture and heritage enshrined in legislation;
- Management and decision-making roles in relation to Aboriginal heritage are by Aboriginal people and Aboriginal controlled organisations;
- Financial support, training and capacity building are directed to Aboriginal controlled organisations to manage and protect Aboriginal heritage; and
- Aboriginal heritage protections are effectively integrated in legislated planning and development approval processes.

The Draft '*Australian Heritage Strategy*' released in 2014 outlines a number of proposed actions the Federal Government will focus on to identify, preserve and protect Australia's heritage. NSWALC is concerned that the Draft Strategy fails to outline comprehensive and tangible proposals for improving the protection and promotion of Aboriginal heritage. The Draft Strategy makes very limited and broad statements in respect to Aboriginal heritage, however, no specific programs, resources or funding streams appear to be allocated to Aboriginal heritage.

Overall, it appears that the Draft Strategy indicates the Australian Government's intention to abrogate its responsibilities to protect Aboriginal heritage in line with commitments it has made internationally including:

- *International Covenant on Civil and Political Rights (ICCPR)*, ratified by Australia in 1980, particularly Article 1 outlining rights to self-determination and Article 27 outlining the rights of minority groups to enjoy their own culture,
- *International Covenant on Economic, Social and Cultural Rights (ICESCR)*, ratified by Australia in 1975, particularly Article 1 outlining rights to self-determination and Article 15 recognising the right to take part in cultural life,
- *International Convention on the Elimination of all forms of Racial Discrimination (ICERD)*, ratified by Australia in 1975,
- *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, adopted by Australia in 2009, which includes specific Article 31 relating to Indigenous peoples rights to maintain, control, protect and develop their cultural heritage, and
- *World Heritage Convention*, ratified by Australia in 1974, which includes Article 5 outlining responsibilities to identify, protect, conserve and rehabilitate heritage.

In respect to Indigenous Heritage, the 'summary of submissions' received by the Department in 2012 states:

"Submissions urge the Australian Government to strengthen protective mechanisms around Indigenous culture and heritage ..., as present systems for surveying, assessing and listing Indigenous heritage places are inconsistent and can be ineffective" (page 6)

However, the Draft Strategy fails to address this issue. The Draft Strategy outlines a list of 'Commitments' and 'Proposed Actions' which both contain cursory and non-binding language. The proposals do not appear to offer any new or specific funding or resource commitments to Aboriginal heritage projects at this stage, other than flagging the Federal Government's aim to utilise the new Green Army Programme to deliver heritage related projects. The Green Army Programme as the sole mechanism to protect Aboriginal heritage is insufficient. According to Department of the Environment documentation the Green Army Programme is aimed at *"providing opportunities for Australians aged between 17-24 years to gain training and experience in environmental and heritage conservation fields and explore careers in conservation management"*.

No rationale is provided as to why the Green Army programme is an appropriate mechanism to protect Aboriginal heritage, no specific details are included regarding how the Green Army programme will be implemented to ensure that Aboriginal heritage projects take place, no criteria or targets are included for the numbers of projects that will be protected through this mechanism, and no specific funding stream or programme is identified.

Recommendation 1: While the goals of encouraging training and capacity building in Indigenous communities are supported, mechanisms to protect Australia's Aboriginal heritage must go beyond the Green Army Programme.

The Summary of submissions received by the Department in 2012 clearly states that: *"The decline in funding for heritage management in Australia was a major theme of public submissions, with many explaining how small increases in funding would enable organisations and individuals to realise some of the more obvious economic and social benefits of heritage"* (page 4). The Draft Strategy has not addressed issues of funding other than outlining broad goals to investigate alternative funding sources, rather than government funding:

- *"Exploring innovative approaches to fund the long term protection and management of Australia's heritage places"* (1.a) , and

- *"Encouraging additional support from other government agencies and private heritage organisations to add value to worthwhile conservation projects" (3.a).*

Recommendation 2: The Federal Government should prioritise funding the identification, protection and management of Aboriginal heritage sites and allocate base level funding to specific programs to protect Aboriginal heritage.

The Draft Strategy recognises the importance of 'Indigenous heritage' generally, and the role that Aboriginal communities play in the identification and management of Aboriginal heritage. The Draft Strategy includes the very broad goal of *"Improving the recognition and protection of Indigenous cultural heritage"* through *"Promoting the 'Ask First' Indigenous consultation guidelines"*, and *"exploring opportunities for Indigenous people to access training and career path development in heritage identification, management, promotion and celebration"*.

It is important that any programs for the protection and recognition of Aboriginal heritage sites are developed and implemented in consultation with Aboriginal peoples. Aboriginal peoples in NSW and particularly the network of Aboriginal Land Councils have key roles in the protection and management of Aboriginal heritage in NSW.

Recommendation 3: In NSW, Local Aboriginal Land Councils should be provided with opportunities to access training in heritage identification, management, promotion and celebration.

NSWALC is concerned by proposals outlined in the Draft Strategy to develop one stop shop streamlining processes which may lead to a reduction in regulatory requirements for assessing and approving activities that will impact on the environment and heritage. In particular NSWALC is concerned that such proposals will reduce legislative protections for Aboriginal heritage. The NSW State of the Environment 2012 has noted that:

*"Simplification or streamlining of planning and development processes have the inadvertent result of making it easier to inappropriately modify heritage places or fail to identify them for protection on schedules."*ⁱ

Recommendation 4: The Draft Strategy should ensure that any proposals for legislative reform will ensure that heritage assessment and approval processes protect and promote Aboriginal heritage in line with best practice standards and the United Nations *Declaration on the Rights of Indigenous Peoples*.

Regards,



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Date: 8/5/14

ⁱ NSW State of the Environment Report 2012, Chapter 1, available at:
http://www.epa.nsw.gov.au/soe/soe2012/chapter1/chp_1.8.htm#1.8.42