

ABORIGINAL CULTURAL HERITAGE BILL

**649. Ms J. FARRER to the Minister for Aboriginal Affairs:**

I refer to the McGowan Labor government's election commitment to empower Aboriginal voices in the draft Aboriginal Cultural Heritage Bill that is currently out for consultation.

Can the minister advise the house what this proposed bill would mean for Aboriginal people and their power to make agreements about activities that may impact on their cultural heritage sites?

**Mr B.S. WYATT replied:**

I thank the member for Kimberley for her question. Last week, we released the draft Aboriginal Cultural Heritage Bill for further comment. This is the final consultation phase of an over two-year period of consultation about a regime to replace the Aboriginal Heritage Act 1972. In 2017, we started the review with a consultation paper. Over that time, we had 550 people participate in 40 workshops, and we received 130 submissions for phase 1. That resulted in the discussion paper released in 2019 and 15 other information sessions, 35 workshops and 70 further submissions. That resulted in the draft bill that has been released, and we will continue our stakeholder engagement about that bill. With the bill's release, nobody should be surprised of its contents. I want to make some broader comments, but I thank all those who have put in submissions and been part of this process. This taken a long time, but necessarily so.

When the 1972 Aboriginal Heritage Act went through the Parliament in 1971–72, it was nation-leading. Coming out of the theft of the Weebo stones in the goldfields, Western Australia passed that act. It has barely changed over the last nearly 50 years. It is now considered very much out of date and inappropriate. Over the years, governments of both persuasions have tried to modernise the Aboriginal heritage regime, but for reasons along the way have not been successful.

This bill seeks to embed the Aboriginal heritage regime in the native title regime of Western Australia, and that is important, because in Western Australia the native title architecture is now very well established. The vast majority of what we call prescribed body corporates—that is organisations that hold native title—are in Western Australia, with 66 in Western Australia. The intent is to ensure that we can prioritise the protection and management of Aboriginal cultural heritage by saying these are the people who need to be spoken to, these are the people with whom there needs to be an agreement with on land use. We have seen very recently with the tragedy at Juukan Gorge that the procedure that exists, what is known as a section 18 procedure, is woefully inadequate for consideration of sites of varying significance. We have exactly the same process regardless of the land use, but also regardless of the significance of the site. By way of example, the process that Rio Tinto went through for a section 18 consent for Juukan Gorge is exactly the same process that any local government would go through to repair a retaining wall on the Swan River; that is, there is one site that is not contentious in any way, shape or form and another that clearly is. That is no longer appropriate. We will have a tiered approval system, depending upon the significance of the locations, but also the nature of the land use proposed to take place on country. I have made the point that, as we all are aware, the federal Parliament has a joint parliamentary committee examining what happened with Juukan Gorge. I made the point there that if the commonwealth government genuinely wants to have a positive impact on Aboriginal heritage outcomes, the best thing to do is fund its native title system better. To be honest, now the established representative bodies, also under the Native Title Act, are coming to the end of their work in Western Australia, so we can transition that budget, but also perhaps get some extra funding to the prescribed body corporates. That is how we will get much more engaged Aboriginal people and much fairer agreement-making between Aboriginal people and proponents, whether they be a mining company, governments or whoever it happens to be.

The consultation period is tailored to a lot of those organisations that have provided submissions. From 21 September, we will move around Western Australia for workshops and public briefings so people are very, very familiar with what is being proposed. The important thing is that with the removal of the section 18 process, with the removal of the Aboriginal Cultural Material Committee that currently exists, we are saying that it is up to Aboriginal people to make the call, make the decision, on what sites are important to them, which, to be honest, by way of aside, takes place already with those good agreements, those land-use agreements. We are now valuing Aboriginal heritage the way it should be done. I think it is fair to say that all members have seen the global reaction to what happened at Juukan Gorge, and what is clear now, member for Kimberley, is that the world has a genuine and deep interest in the history of Australia, and, importantly, Western Australians and Australians have an opportunity now to embed the value of Aboriginal heritage in agreement-making that should have been and has been taking place for some time.