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Senate Committees on Environment and Communications Inquiry – Protection of Aboriginal Rock Art of the Burrup Peninsula

On 30 November 2016, the Senate referred an inquiry into the protection of Aboriginal rock art of the Burrup Peninsula to the Senate Environment and Communications References Committee for inquiry and report, with the reporting date currently 12th July 2017. We understand that the inquiry was into “the Commonwealth’s responsibility under the *Environment Protection and Biodiversity Conservation Act 1999* to protect the globally significant and National Heritage listed Aboriginal rock art of the Burrup Peninsula including the impact of industrial pollution and matters related to the Commonwealth and Western Australian Governments’ conditions regulating and oversighting industries on the Burrup Peninsula”.¹

While we understand that it is now too late to make a submission to the inquiry, we are writing to convey to the Senate Environment and Communications References Committee the extreme cultural heritage significance of the Aboriginal rock art of the Burrup Peninsula and the critical need to ensure that the management that is put in place, including decisions that allow and prescribe conditions for industrial development in and near the site, will not result in further impact on this outstanding and rare body of art.

We make this comment as the three key national professional heritage organisations in Australia that have an interest in Indigenous heritage and the conservation of significant heritage more broadly. Australia ICOMOS, as a national committee of ICOMOS (the International Council for Monuments and Sites) also has a strong interest in the identification and conservation of World Heritage Sites.

It is our view that the Aboriginal rock art of the Burrup Peninsula, as a suite, is of outstanding universal value as well as outstanding value to Australia. As such this body of rock art deserves the highest level of protection and conservation management.

We offer the following comments in relation to the Federal government’s obligations to protect the Aboriginal rock art of the Burrup Peninsula under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*, including though the inclusion of the place on the National Heritage List, and more generally:

1. In making decisions about the Aboriginal rock art of the Burrup Peninsula, in particular about the potential and observed impacts from industry and the mitigation of such impacts, the Precautionary Principle must be used. Under the EPBC Act (Section 3A (b) - Principles of ecologically sustainable development) the Australian Government has a responsibility to apply the Precautionary Principle.
2. In making decisions about the Aboriginal rock art of the Burrup Peninsula it is essential that the broad range of cultural heritage values of the place be considered. To date it appears that the focus of

¹ Senate Committees website, May 2017.

decision making has been primarily on the physical fabric of the rock art with limited consideration given to the social, spiritual and other values of the place.

3. In making decisions about the Aboriginal rock art of the Burrup Peninsula it is also essential that the setting and landscape values of the place be considered. These values have been significantly compromised by existing industry on the Burrup Peninsula and all efforts should be made to i) prevent further such impacts, and ii) mitigate existing impacts where possible.
4. In making decisions about the Aboriginal rock art of the Burrup Peninsula it is critical that cumulative impacts (and potential impacts), particularly from industrial development, are considered.
5. In relation to the Aboriginal rock art of the Burrup Peninsula, as well as to other cultural heritage places on the National Heritage List, it is essential that all decision making and actions are informed by comprehensive heritage conservation management plans, and that these are updated as needed to reflect changed knowledge or condition of the place and/or management.
6. In relation to the Aboriginal rock art of the Burrup Peninsula, as well as to other cultural heritage places on the National Heritage List that require specialised monitoring, it is essential that there is not only appropriate monitoring in place, but also independent analysis and/or technical assessment/review (preferably by an established expert group), and that the monitoring requirements and conditions are clear and public². Public disclosure of monitoring results and review findings is essential for heritage of such outstanding importance.
7. There is a clear need to strengthen the impact evaluation and management (including monitoring) conditions for the Aboriginal rock art of the Burrup Peninsula as well as other cultural heritage places on the National Heritage List, where there are existing or proposed developments that that have the potential to impact on these places. A particular issue that requires addressing is that currently there is no obligation on the Commonwealth Government (or other body) to monitor compliance with protective conditions that they impose on referred developments.

We are very mindful of the severe capacity constraints on the Department of Environment and Energy, whereby the core heritage staff has been substantially reduced over the last decade or so. It would be extremely unfortunate if this reduction has affected the ability of the Department to monitor Australia's National Heritage, and to achieve effective protection.

Finally, we take this opportunity to urge the Australian government to actively pursue the nomination of the Burrup Peninsula Aboriginal rock art place to the World Heritage List. This of course must be undertaken in consultation with, and with the support of, the Traditional owners of the area. The Burrup Peninsula is a unique Indigenous place of outstanding value, whose World Heritage value has been previously recognised³, and it is Australia's responsibility to protect and present such a place at the global level.

We thank you for your consideration of our comment. We understand that the time left to complete the inquiry is very short, but our organisations would be very happy to meet with Senate Committee members or relevant government staff to provide more detail on our comment, or to discuss any of the matters we have raised here.

Yours faithfully

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² It is worth noting here that our organisations have recently made a joint suggestion to the WA Department of Aboriginal Affairs that a new expert advisory group be formed to assist the State in relation to the management of Aboriginal cultural heritage.

³ For example, Valentine, P., 2013, 'The future of World Heritage in Australia', in Figgis, P. et al (eds) *Keeping the Outstanding Exceptional: The Future of World Heritage in Australia*, Australian Committee of IUCN; pp. 208-213.