



23 August 2023

*spirit of
Change*

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Senator Karen Grogan
Chair
Senate Standing Committees on Environment and Communications
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: ec.sen@aph.gov.au

Dear Senator Grogan,

CLIMATE CHANGE AMENDMENT (DUTY OF CARE AND INTERGENERATIONAL EQUITY) BILL 2023

On behalf of the National Native Title Council (NNTC), I am pleased to put forward the following submission. The NNTC is the peak body for Australia's Native Title and other Traditional Owner organisations. The NNTC represents Native Title Representative Bodies and Service Providers as well as Prescribed Bodies Corporate (PBCs) recognised under the *Native Title Act* (NTA) and other equivalent Traditional Owner Corporations (TOC) established under parallel legislation such as the Victorian *Traditional Owner Settlement Act 2010*.

Our submission highlights the fundamental connection between the wellbeing of our people and the health and vitality of our culture and our country. These issues are fundamental to the matters arising from the Bill under consideration by the Committee. Our submission also highlights the importance that the right to culture is a right held by our Nations collectively. The submission concludes by noting that the NNTC supports consideration of intergenerational equity in response to climate change. However, this support is prefaced by ensuring that matters such as the health, life expectancy, economic well-being as well as the support for the relationship of First Nations peoples to their Country and Culture are addressed.

Background

On 3 August 2023, the Australian Senate referred the *Climate Change Amendment (Duty of Care and Intergenerational Climate Equity) Bill 2023* (the **Bill**) to the Environment and Communications Legislation Committee (the **Committee**) for Inquiry.

The Committee is receiving submissions on the Bill until 20 October 2023 with a final report being delivered on 1 March 2024.

The Bill seeks to amend the *Climate Change Act 2022* (the **Act**) to require decision makers to consider the wellbeing of current and future children when making certain decisions that are likely to contribute to climate change, including decisions that will increase scope one, two or three emissions.¹

It is essential that in consideration of the impacts of climate change, the unique impacts felt by Aboriginal and Torres Strait Islander peoples are not only acknowledged but actively remediated. The wellbeing of Country affects the wellbeing of community and culture for our peoples and must be understood in this debate.

Part of these considerations should be the work currently being undertaken by the Australian Government Productivity Commission (the **Commission**) in its review of the National Agreement on Closing the Gap (the **Agreement**), signed in 2020.

The Commission's *Review of the National Agreement on Closing the Gap Draft Report* (the **Report**) was released in August 2023 with a final report being provided to the Joint Council on Closing the Gap in December 2023.

An inequitable balance of Power

Intergenerational equity must start with addressing the power imbalance experienced by today's adult generations. Sharing that imbalance disproportionately grows intergenerationally and creates a level of disadvantage not only unacceptable in the modern world but unimaginable in it.

At the heart of Aboriginal and Torres Strait Islander peoples' wellbeing outcomes, the demonstrable failure in achieving the Agreement targets, and intergenerational equity – is power imbalance.

Across our work with Traditional Owner organisations, as well as in our communities and our homes, we witness and live the fundamental link between wellbeing, access to Country and practice of Culture for Aboriginal and Torres Strait Islander peoples.

¹ *Climate Change Amendment (Duty of Care and Intergenerational Equity) Bill 2023 Explanatory Memorandum, 2023*

What we now consider to be land rights, human rights and Indigenous rights, are the day-to-day responsibilities of Traditional Owners supported through a statutory and regulatory system.

When these regimes fail to be upheld or acknowledged, as is the case with Australia's commitment to the United Nations Declaration on the rights of Indigenous Peoples (**UNDRIP**)² and much aspirational government policy, the result is a decrease in wellbeing.

Wellbeing is interconnected with Culture and Country

When we speak of wellbeing, we speak of wellness that is spiritual, emotional and physical; it includes practicing culture, copyright protections and water allocations but also decreased life expectancy.

The Australian Human Rights Commission understands the essential need to support all aspects of cultural life for Aboriginal and Torres Strait Islander peoples in order to achieve broader health related outcomes, as *"life expectancy, health and wellbeing outcomes for Aboriginal and Torres Strait Islander peoples are inextricably linked to interconnected socio-economic and cultural factors."*³

In 2018, research into Indigenous land management as primary health care, highlighted Indigenous land management as a source of wellbeing, through strengthened identity and empowerment.⁴ This research shows that more than access to Country and practice of Culture, the fundamental link for improved wellbeing is rights and decision-making responsibility for Country.

The health of Country is the health of Culture and the health of Community. Maintaining the health of Country, through Cultural practices in turn heals the community and everyone prospers.

The impacts of climate change on the health of Country are manifold. They manifest in changed species range, biocultural landscape change, extinction rates, changed environmental management conditions such as fire and flood, coastal change and destruction of cultural sites. The physicality of these impacts in turn deleteriously affects Community and Culture.

² United Nations, *Declaration on the Rights of Indigenous Peoples*, 2007

³ Australian Human Rights Commission, *Wiyi Yani U Thangani Women's Voices - Securing Our Rights Securing Our Future*, 2020

⁴ Schultz, R., Abbott, T. and Cairney, S., *Indigenous land management as primary health care: qualitative analysis from the Interplay research project in remote Australia*, 2018

Cultural rights are collectively held

Culture is a collectively held right and requires the engagement and wellbeing of the entire community to flourish. The intergenerational access to Culture provides stability and strength to communities whilst ensuring that inherited culture continues to be transferred from Ancestors from over 65,000 years ago to younger generations.

Looking to intergenerational equity and health outcome improvement, today's children must be engaged in cultural connectivity and be provided with real decision-making responsibilities for Country as adults.

In consideration of cultural practice and decision making on Country, it is essential that the collective nature of cultural rights is understood and respected. As a collective set of rights, they are held within the community and managed through self-determined governance structures and representative groups. In implementing UNDRIP article 18, that "*Indigenous peoples have the right to participate in decisions through representatives chosen by themselves in accordance with their own procedures*", it is imperative that those representative groups are spoken to.

Aboriginal and Torres Strait Islander Peoples have in many cases formalised their self-determined representative structures through the formation of PBCs and other entities under jurisdictional legislations. When discussions of Country and speaking for Country are held, they must be with the entities that manage those rights on behalf of their communities.

We support a consideration of intergenerational equity in response to climate change but note that first, health and life expectancy equity, financial equity, social equity and fundamental respect for the relationship of First Nations peoples to their Country and Culture be implemented and respected.

Yours sincerely,

Jaymie Lowe
Chief Executive Officer