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**SUBMISSION – REVIEW OF ABORIGINAL HERITAGE ACT**

To whom it may concern,

The current Aboriginal Heritage Act does not give enough protection for our Indigenous heritage. The proposals in the discussion paper will change the Act to make it even less effective at protecting Aboriginal sites. This is huge concern,

The new Act only protects sites listed on the "Register of Sites" and offers no protection to areas not subjected to heritage surveys. All unidentified heritage sites MUST be added to the "Register of Sites". The new Act may also be used to remove sites from the "Register of Site" if there is no current and continuing use by Aboriginal people. These sites record Australia's cultural heritage and should be preserved. The new provision added to the Act also gives the Minister and Department delegates the right to certify activities, on or in the vicinity of Aboriginal sites will not significantly impact on the sites, but there is no definition of what is significant harm. These changes are in direct conflict with the principles of 9 and 10 in the Racial Discrimination Act 1975 which talks about the rights of Indigenous peoples to determine what is important to them in their own culture.

It is obvious that the Act of 1974 did little or nothing to protect Aboriginal Sites. I fail to see how changing this Act to provide even less protection is in the countries best interest. Under the current Act, not a single application to disrupt a sacred site has been turned down in more than 10 years. **Any changes to the Aboriginal Heritage Act should be to create further protection, not make it easy for mining companies to destroy sites simply for monetary gain.**

Below please find a listing of just a few sacred sites that have been damaged, under the Aboriginal Heritage Act 1974. It is clear to see this Act offered no protection for these sites.

PLEASE EXPLAIN HOW AN AMENDED ACT OFFERING EVEN LESS PROTECTION WILL PROTECT OUR ABORIGINAL SACRED SITES AT ALL?

- Dominion Mining threatened the destruction of Aboriginal sacred sites at Yakabindie. The state government gave Dominion Mining the go-ahead to mine there for nickel. The advisory Aboriginal Cultural Materials Committee accepted a report stating there were only two sites of significance to Aboriginal people in the area even though a second report by the University of WA anthropologists Jemma Pope and Phillip Moore revealed another 18 sites. One of these site was destroyed, though there had been no mining activity nearby. The damage appears to have been deliberate. No one was prosecuted.
- Fortescue Metals Group has damaged sacred sites in Western Australia's Pilbara. The Yindjibarndi Aboriginal Corporation confirmed the damage to sacred land and accused the miner of coercing heritage consultants to change a report describing the significance of the area. No investigation has been made into these allegations, even after the Greens Senator Rachel Siewert asked Environment Minister Tony Burke to use his powers to investigate.
- Woodside Petroleum moved 170 ancient rock engravings to build a natural gas production plant on the Burrup Peninsula the company received 'intense criticism' from archaeologists. Woodside was advised by archaeologists that moving the Aboriginal rock art would destroy their spatial arrangement. The Aboriginal Heritage Act 1972, did not protect these sacred sites... and a watered down version will be even less likely to offer any real protection.

- Cemex damaged and destroyed Aboriginal rock art at three sites at its Nickol Bay quarry in northern WA by blasting and bulldozing in a National Heritage-protected zone. The WA Department of Indigenous Affairs told traditional owners of the Burrup region, that Cemex would be prosecuted over the incident. The sites were protected by both state and national heritage laws. An expert hired by the department to investigate, found the Aboriginal rock art and quarry had been "destroyed and damaged" and recommended prosecution. Peter Garrett had given assurances in 2008 that the Burrup would not be affected by industry in the region. "It is his responsibility to review this thoroughly and ensure any breaches are prosecuted to the full extent of the law.
- In 2006 WA's Minister for Indigenous Affairs, Sheila McHale, dismissed the desperate pleas of Palyku people to divert construction of Fortescue Metals Group's railway line from slicing through the heart of the Woodstock-Abydos Aboriginal Reserve – one of the oldest and most sacred engraving places in the world. Instead of choosing a solution to track the rail around the area, she 'varied' the special protected status of this Reserve to allow FMG's railway to cut through. This opposed the wishes of Traditional Owners.
- In 2008, when the Marapikurrinya people tried to stop development in an Aboriginal Heritage listed part of the Port Hedland harbour, FMG and Twiggy Forrest threatened the Marapikurrinya and the WA State Government by saying he would sue them for damages if his project was delayed. Indigenous Affairs Minister Kim Hames promptly responded by sidelining the Aboriginal Heritage Act and giving approval for FMG's expansion work in this 'protected' area of the Port Hedland harbour. This opposed the wishes of Traditional Owners.
- In 2009, Rio Tinto destroyed the Gurrwaying Yinda site in Yindjibarndi country. The Yindjibarndi contacted the Department of Indigenous Affairs, the State & Miners against Aboriginal Futures p2/2, Aboriginal Cultural Materials Committee, the office of the Minister of Aboriginal Affairs and the Minister himself to halt Rio Tinto's work and to provide assistance to protect their country and culture. All appeals and complaints were dismissed. This provides a text-book example of how power 'pretends' consultation with traditional owners while proceeding with industrial development regardless. Yindjibarndi wrote to the Minister for Indigenous Affairs, Kim Hames, informing him of Rio Tinto's breach to the Aboriginal Heritage Act and asked him to intervene on their behalf, he replied: "I have no power under the AHA to order that works which may be impacting upon an Aboriginal site be ceased". It seemed that while the Minister lacked the power to stop miners from destroying Aboriginal sites, he was ever willing to sanction Miner's destruction of an Aboriginal sacred place regardless of protective provisions of the Aboriginal Heritage Act. Finally, after the Aboriginal Cultural Materials Committee (ACMC) reviewed the case, Rio Tinto was given permission to proceed, by Minister Hames. The Yindjibarndi pressed for an inquiry but Rio Tinto was never prosecuted for destroying the Gurrwaying Yinda site by the WA Department of Indigenous Affairs.
- In relation to Woodside Energies agreement will the KLC:- When it took too long for an agreement to be reached , Western Australia's premier Colin Barnett simply announced that his government would compulsorily acquire the land at James Price Point (Walmadan) . This decision is significant because acquisition powers are usually reserved for acquiring interests in land for a PUBLIC purpose. Traditional owners don't want their sacred land destroyed and have been protesting at the site for over a year. The Aboriginal Heritage Act has offered no protection at all.
- OM Mining's mining activities at its Bootu Creek manganese, 170km north of Tennant Creek, caused the Aboriginal site, known as Two Women Sitting Down, to be destroyed. It was split in half as a result of work carried out by the company. No one has been prosecuted to date.
- The Ranger uranium mine in the Kakadu National Park, Northern Territory, leaked about 100,000 litres of contaminated water *a day for 30 years* from its tailings dam—but an 18-month review completed in 2010 failed to find where the water had gone. The Ranger mine has had more than 150 leaks, spills and mishaps since it opened despite opposition from Kakadu's traditional owners in 1981. Aboriginal people **feel disempowered** by the complex processes, legal talk and are often forced to accept. Along with the economic loss of access to their land and traditional food sources goes the spiritual loss of their connection to country.

- WOODSIDE Energy asked permission to drill on Aboriginal sacred sites at its proposed \$40 billion James Price Point gas hub near Broome. The current Act allows mining companies to damage sites as long as they have a section 18, which gives ministerial consent to work in the area. The Goolarabooloo Traditional Owners and other parties, were only given one week to respond which is totally unbelievable. Goolarabooloo Law Boss, Joseph Roe said Woodside's drilling program to test the feasibility of the James Price Point liquefied natural gas project would damage areas that had been recognised for their heritage values since 1991. Mr Roe and his family are contesting the section 18 application. The current Aboriginal Act has provided Mr Roe and his family no protection. They are contesting the Section 18 application, but Woodside can still receive ministerial consent for its Section 18 application despite the objection of Traditional Owners.

A report by the WA Auditor General Colin Murphy, found, mining companies in Western Australia are shirking environmental requirements and could be damaging Aboriginal heritage sites. The report also found indigenous heritage sites were not being effectively monitored and half the state's resources companies were not submitting annual environmental reports. The Auditor-General said although the government had tightened licence requirements, they were not being properly policed after leases were signed. "We cannot be assured that mining conditions are being complied with without an appropriate monitoring and compliance regime," he said. The auditor-general said there was a "very real" risk indigenous heritage sites were being damaged without the government's knowledge, as inspections generally took place only after complaints had been received. "There has been very limited monitoring or compliance with Aboriginal heritage," Mr Murphy said.

It is obvious that some negotiations between miners and Aboriginal communities are "tokenistic" and carried out in an atmosphere of fear, suspicion, bullying and compulsion. Sometimes community members are forcibly removed from public meetings. Research suggests that Aboriginal communities are not opposed to mining or development – but they are opposed to the destruction of their culture, their land, their sites, and to the bullying that goes on around mineral exploration and mining. This is Aboriginal heritage and history that is tens of thousands of years old, and its being dismissed. In human terms damage to Aboriginal Heritage Sites is the equivalent of vandalising Stonehenge or the Pyramids. This is far from acceptable.

**Strong questions need to be asked:-**

1. How is it that the previous and existing assessments and protections, can be over-ridden -so they can agree to drill and damage history?
2. Who will be the people who make these assessments?
3. What is their cultural knowledge and authority?
4. Who are these people who all of sudden reverse assessments made in the 1980s?

The suggested changes to the Aboriginal Heritage Act are laughable and offer even less protection than the act of 1972. The FACT that 80% of mining activities in Australia take place on Aboriginal land is the main factor why changes are currently being made. The beneficiary of this will be the mining industry, as it does not offer any further protection to Aboriginal Sites.

Yours sincerely

Anne Dean